GUIDE BOOK

FOR

MOONSIFFS, SUDDER AMEENS, AND PRINCIPAL SUDDER AMEENS;

CONTAINING

ALL THE RULES NECESSARY FOR THE CONDUCT OF SUITS IN THEIR COURTS;

EXTRACTED FROM THE

REGULATIONS OF GOVERNMENT,

AND METHODICALLY ARRANGED.

PUBLISHED UNDER THE PATRONAGE OF

THE HON. THE VICE-PRESIDENT IN COUNCIL.

BENGAL SECRETARIAT LIBRARY.

FROM THE SERAMPORE PRESS.

1832.

ADVERTISEMENT.

In presenting this work to the public, the Compiler begs leave to remark, that it has been his object to include every enactment which bore upon suits to the extent of 5000 Rs. so as to render it a complete Guide to the Courts recently established of Moonsiffs, Sudder Ameens, and Principal Ameens. Some of the quotations from the Regulations may possibly be considered irrelevant; for which his only apology is, that an error occasioned by a redundancy appeared liable to less objection than one which arose from a deficiency;—had any part of a Regulation essential to causes cognizable by these Courts been omitted, the work would have been rendered to a certain extent useless; whereas, those who use the work, may easily note any quotation which is found to be inapplicable.

The reader is solicited to remember that Provincial Courts having been abolished, wherever the Fifth Regulation of 1831 is introduced, the word 'Commissioner of Revenue and Circuit' must be substituted in all places where the phrase 'Judge of the Provincial Court,' occurs in this compilation.

The reader will also find it necessary to correct the references to the Stamp Regulation made in this work, and to take for his guide the Schedules published in the Appendix of the Stamp Regulation X. of 1829, which supersedes every preceding enactment.

JOHN C. MARSHMAN.

SERAMPORE,
1st June, 1832.

CONTENTS.

Page

A. D. 1831, Regulation V. xi

Note xxix

CHAPTER I.

MOONSIFFS.

Section I.—Rules for the Nomination of Moonsiffs 1

II.—Description of Suits cognizable by Moonsiffs ... 1

III.—Description of Suits which are not cognizable by Moonsiffs 3

IV.—Rules for computing the Period within which Suits are cognizable by Moonsiffs 3

V.—Rules for computing the Value of the Property in Litigation 7

VI.—Provision for the due Administration of Hindoo and Mahomedan Law in certain Cases 9

VII.—Provision for Cases in which the above Rules cannot apply 9

VIII.—Cases of Succession to real Property 10

IX.—Institution of Suits in the Moonsiffs' Courts ... 10

X.—Penalty for Corruption and Misconduct 10

XI.—Dismissal and Suspension of Moonsiffs 11

XII.—Pleaders in Moonsiffs' Courts 14

XIII.—Stamp Duties 16

XIV.—Filing of the Plaint 17

XV.—Notice and Proclamation 18

XVI.—Trials exparte 21

Page

SECT. XVII.—Securities 22
XVIII.—Pleadings 25
XIX.—General Rules for the Trial of Suits 26
XX.—Rules regarding Witnesses 28
XXI.—Exhibits... 36
XXII.—Contempt of Court 36
XXIII.—Decision of Suit and Copy of Decrees 37
XXIV.—Execution of Decrees 38
XXV.—Execution of Decrees in Cases appealed ... 43
XXVI.—Appeals from Moonsiffs' Decisions 49
XXVII.—Periodical Reports 51
XXVIII.—Extra Duties of Moonsiffs 53
XXIX.—Authority to sell distrained Property 55
XXX.—Penalties for Abuse of Authority 58
XXXI.—Defaulters 59
XXXII.—Rules for Attachment 60
XXXIII.—Search of Houses 64
XXXIV.—Property liable to Attachment, and Rules regarding it 66
XXXV.—Duties of the Moonsiff or Distrainer 72
XXXVI.—Rules of Sale 78
XXXVII.—Arrest of Defaulters 81
XXXVIII.—Remuneration of Moonsiffs 83
XXXIX.—Authority of Moonsiffs to decide Claims for the Arrears of Rent, &c. 84

CHAPTER II.

SUDDER AMEENS.

SECTION I.—Appointment of Sudder Ameens 85
II.—Penalties for Misconduct 88
III.—Suspension and Dismissal of Sudder Ameens ... 88
IV.—Amount and Nature of Suits cognizable by Sudder Ameens 88
V.—Suits of Paupers 89
VI.—Salaries of Sudder Ameens 90

Page

SECT. VII.—Stamp Duties 91
VIII.—General Rule for the Trial of Suits 91
IX.—Rules for computing the period within which Suits are cognizable by Sudder Ameens 92
X.—Rules for computing the Value of the Property in Litigation 92
XI.—Filing of the Plaint 92
XII.—Notification to Defendants 93
XIII.—Securities 96
XIV.—General Process 99
XV.—Resistance of Process 102
XVI.—Rules regarding Tulubana 109
XVII.—Pleadings 111
XVIII.—First Hearing and Exhibits 115
XIX.—Witnesses 118
XX.—Questions of Law 121
XXI.—Particular Investigations 123
XXII.—General Trial 124
XXIII.—Decision and Copies of Decrees 125
XXIV.—Execution of Decrees 129
XXV.—Diet to Defendants 134
XXVI.—Sales of Land in satisfaction of Decrees 136
XXVII.—Sale of other Property 138
XXVIII.—Insolvent Debtors 142
XXIX.—Appeals from the Decision of Sudder Ameens 142
XXX.—Summary Appeals 142
XXXI.—Execution of Decrees in Cases appealed ... 144
XXXII.—Retention or Recall of Suits 145
XXXIII.—Correspondence 145
XXXIV.—Arbitration 146
XXXV.—Institution of Suits by Native Officers and Soldiers 153
XXXVI.—Suits against Native Officers or Soldiers ... 156
XXXVII.—Conduct of Suits of Native Officers and Soldiers 158
XXXVIII.—Decrees against Native Officers and Soldiers ... 160
XXXIX.—Rates of Interest in Bengal, Behar and Orissa 161
XL.—Rates of Interest in Benares 162
XLI.—Rates of Interest in the Ceded and Conquered Provinces 163

Page
SECT. XLII.—Rates of Interest in Cuttack 164
XLIII.—General Rates of Interest 164
XLIV.—Mortgages 167
XLV.—Conditional Sales 169
XLVI.—Rules regarding the Rates of Pottahs 172
XLVII.—Prohibition of Abwabs, &c. 175
XLVIII —Form and Contents of Pottahs 176
XLIX.—Distribution of Pottahs 178
L.—Period of Leases 179
LI.—Discharge of Rent 181
LII.—General Rules regarding Putnee Talooks 183
LIII.—Alienation of Putnee Talooks 184
LIV.—Sale of Putnee Talook for Arrears of Rent ... 186
LV.—Power of Under-tenant to stay Sale 190
LVI.—Rights transferred to Purchasers 191
LVII —Appointment of Ministerial Officers in the Courts of Sudder Ameens 193
LVIII.—Powers of Sudder Ameens in Criminal Cases ... 193

CHAPTER III.

PRINCIPAL SUDDER AMEENS.

SECTION I.—Appointments 197
II.—Monthly Allowances 197
III.—Declaration to be made by them 197
IV.—Suits cognizable by them 198
V.—Mode of investigating Suits 199
VI.—Vakeels 199
VII.—Rules for the Trial and Decision of original Suits and Appeals 199
VIII.—Process how to be served 200
IX.—Powers to be exercised in Criminal Matters ... 200
X.—Appeals 200
XI.—Special and Summary Appeals 201
XII.—Review of Judgment 207
XIII.—Stampt Paper in the Principal Sudder Ameens' Courts 209

Page

SECT. XIV.—Rules to be particularly observed by Principal Sudder Ameens 209
XV.—Execution of Decrees 210
XVI.—Reports 210
XVII.—Retention of Causes on their own Files by the Judges 210
XVIII.—Ministerial Officers 210
XIX.—Dismissal or Suspension of Principal Sudder Ameens 217
XX.—Criminal Prosecution of Principal Sudder Ameens 217

CHAPTER IV.

VAKEELS.

SECTION I.—Appointment of Vakeels 219
II.—Misconduct and Dismissal of Vakeels 223
III.—Penalties for Minor Offences 225
IV.—Duties of Vakeels 227
V.—Engagements of Vakeels 231
VI.—Change of Vakeels 232
VII.—Legal Opinions 235
VIII.—Rates of Deposit of Vakeels' Fees 236
IX.—Rates of Fees in Regular Suits and Appeals ... 239
X.—Fees in Summary Suits and Appeals 239
XI.—Fees in Miscellaneous Cases 241
XII.—Fees in Appeals from Sudder Ameens and Moonsiffs 242
XIII.—General Rules regarding Fees 242
XIV.—Receipts for Fees 244

APPENDIX.

Suits of Paupers 247
Stamps 257

A. D. 1831. REGULATION V.

A REGULATION *for extending the Powers of Moonsiffs and Sudder Ameens in the trial of Civil Suits; and for authorizing the Appointment of Principal Sudder Ameens at the Zillah and City Stations; for modifying the powers and duties of the Zillah, City, and Provincial Courts in connection with those arrangements; and for enlarging the sphere of selection with regard to the Offices of Moonsiffs and Vakeel.—Passed by the Vice-President in Council on the* 1*st November* 1831, *corresponding with the* 17*th Cartick* 1238 *Bengal Era; the* 11*th Cartick* 1239 *Fusly*; *the* 18*th Cartick* 1239 *Willaity; the* 12*th Cartick* 1888 *Sumbut*; *and the* 25*th Jumadee-ul-uwal* 1247 *Higeree.*

PREAMBLE.

WHEREAS the state of Civil business in the Zillah and City Courts renders it desirable on general grounds to employ respectable Natives in more important trusts connected with the administration of the Country; and whereas it is expedient that the provisions for this purpose should be gradually introduced into the Zillahs and Cities from time to time as the Governor General in Council, by an order in Council, may be pleased to direct; and whereas it has become necessary in connection with those arrangements to modify the powers and duties of the Zillah, City, and Provincial Courts; and whereas it has been deemed just and proper that

no Native of India should be considered ineligible to the office of Moonsiff or Vakeel on account of his religious belief or persuasion, the following rules have been enacted to be in force from the date of their promulgation throughout the Territories subject to the Presidency of Fort William.

The Governor General in Council competent to extend the Provisions of this Regulation to any Zillah or City.

II. Whenever it shall appear expedient in the judgment of the Governor General in Council to extend the provisions of this Regulation to any Zillah or City, it shall be competent to the Governor General in Council, by an order in Council, to direct the same, and to fix the date from which the Regulation shall take effect, and notice thereof shall be published by Proclamation at the Cutcherries of the Moonsiffs, and at the Zillah or City Courts concerned, and shall likewise be communicated to the Court of Sudder Dewanny Adawlut, and to the Provincial Court of the Division to which such Zillah or City may belong.

Rules for the nomination of Moonsiffs.

III. In modification of the provisions contained in Sections VI. and VII. Regulation XXIII. 1814, and Section II. Regulation II. 1821, the Judges of the Zillah and City Courts, in conjunction with the Commissioner of Revenue and Circuit, shall revise the existing establishment of Moonsiffs in the Zillahs and Cities to which this Regulation may be extended, and the selection and number of those Officers shall be regulated in such manner as the Governor General in Council may be pleased to direct, the office being open to Natives of India of any class or religious persuasion.

Clauses of Regulations rescinded.

IV. Clause First, Section XIII. Regulation XXIII. 1814, Section XII. Regulation XIX. 1817, and Clauses First and Second, Section III. Regulation II. 1821, are hereby rescinded.

V. *First.* Persons invested with the powers of Moonsiffs are hereby empowered to receive, try, and determine all suits of the following descriptions, provided the landed or other real property to which the suit may relate shall be situated, or provided, in all other cases, the cause of action shall have arisen, or the defendant, at the time when the suit may be commenced, shall reside as a fixed inhabitant, within the limits to which their respective jurisdictions may extend.

Descriptions of suits cognizable by Moonsiffs.

Second. For money or other personal property not exceeding in amount or value the sum of three hundred Rupees, provided the claim include the whole amount of the demand arising from the cause of action, and be not for damages on account of alleged personal injuries, or for personal damages of whatever nature.

Suits for personal property, to the value of 300 Rupees, cognizable by Moonsiffs.

Third. For the property or possession of land or other real property, with the exception of land held exempt from the payment of Revenue, the computed value of which shall not exceed three hundred Rupees.

Suits for real property, to the value of 300 Rupees, cognizable by Moonsiffs.

Fourth. The prohibitions contained in the Second Clause of Section XIII. Regulation XXIII. 1814, are hereby declared applicable to the suits above-mentioned.

Moonsiffs prohibited from receiving and trying certain suits.

Fifth. Moonsiffs further prohibited from receiving any suits, which persons may be desirous to prefer before them in *formâ pauperis*; but it shall be competent for the Judge to refer for trial to the Moonsiffs, within his jurisdiction, any such suits which may have been instituted before him, and would otherwise have been cognizable by them whenever he may think proper so to do.

Particular provisions applicable to suits in *formâ pauperis*.

Sixth. The rules prescribed in the existing Regula-

Rule for com-

puting the period within which suits are cognizable, and the value of the property in litigation in the Moonsiffs' Courts,

tions in regard to the period within which suits may be admitted in the Zillah and City Courts, as well as in regard to the mode of computing the value of the property in litigation, shall be held applicable to suits preferred to the Moonsiffs.

Local rules for Moonsiffs in Zillah Chittagong, rescinded.

VI. *First.* The local rules for Moonsiffs in Zillah Chittagong, contained in Sections LVII. LVIII. and LIX. Regulation XXIII. 1814, are rescinded; and the following Clauses of the Section last mentioned, are re-enacted for the observance of the Moonsiffs generally.

Provision for the due administration of the Mahomedan and Hindoo Civil Law in certain cases.

Second. In all cases of inheritance of, or succession to, landed property, the Mahomedan Laws with respect to Mahomedans, and the Hindoo Laws with regard to Hindoos, are to regulate the decision; and the Moonsiffs, in all such cases where doubts exist, are to obtain an exposition of the Law from the Law Officers of the Zillah Court, to whom they are to transmit a written abstract of the case for this purpose: such exposition however is not to preclude a further reference to the Law Officers of the Zillah Courts, upon such points of law as may arise upon the cause, in the event of its being tried in appeal. In causes in which the plaintiff is of a different religious persuasion from the defendant the decision is to be regulated by the law of the latter, provided that this rule is limited to cases in which the defendant is either a Mahomedan or Hindoo.

In all other cases Moonsiffs to act according to justice, equity, and good conscience.

Third. In cases in which the above rules cannot be applied, the Moonsiffs are to act according to justice, equity, and good conscience.

Rules to be observed in cases of succession to real property.

Fourth. In all suits concerning the succession or right of inheritance to a Zemindaree, Talook, Land, House, or other real property, the Moonsiffs are to affix in some conspicuous part of their Cutcherries and

to publish in the village, in or near to which the property is situated, a written notification of the claim preferred, with a requisition to all persons who may have any claim to the property sued for, to prefer the same within a limited period; and they are not to pass a decree in such suits, when there are more claimants than one, who by the Hindoo or Mahomedan Law (respect being had to the religion of the claimants) would be entitled to a portion of the property, excepting the property be by the decree adjudged to all the claimants in the proportions to which they may be respectively entitled.

Suits within the competency of the Moonsiffs to be ordinarily instituted in their Courts. Proviso.

VII. All suits within the competency of a Moonsiff, to decide under the foregoing provisions, shall ordinarily be instituted in the Moonsiffs' Courts. Provided nevertheless that it shall be competent to a Zillah or City Judge to receive such suits, and to try them himself, or to refer them for trial to any other Court subordinate to his authority, whenever he may see sufficient reason for so doing.

Provisions of existing Regulations, rescinded.

VIII. *First.* Section XVI. Regulation XXIII. 1814, and Clauses Third and Fourth, Section III. Regulation II. 1821, are rescinded.

Value of stamp paper on which the plaints shall be written.

Second. In suits instituted before the Moonsiffs under the foregoing rules, the plaint shall be written upon stamp paper agreeably to the rates specified in the Schedule B, referred to in Section XVII. Regulation X. 1829.

Suits to be tried and decided by Moonsiffs under rules heretofore in force

Third. The provisions contained in the existing Regulations relative to the trial and decision of suits already cognizable by the Moonsiffs, are hereby declared to be equally applicable to suits which may be instituted before those Officers under this Regulation.

Modifications of rules regarding stamp duties chargeable on law papers in the Courts of Moonsiffs

IX. *First.* In order to equalize the stamp duties chargeable on law papers in the Courts of the Moonsiffs, the rules and exemptions specified in Nos. 2, 4, 5, and 9, in Schedule B, referred to in Section XVII. Regulation X. 1829, are hereby modified as follows,

Stamp paper not requisite for certain documents

Second. In all suits tried in the Courts of the Moonsiffs, the pleadings, the applications of parties for the filing of exhibits, as well as for the attendance of witnesses, and the copies of decrees, need not be written on stamp paper.

Section II Regulation III. 1817, rescinded

Third. Section II. Regulation III. 1817, is hereby rescinded; and the exemptions contained in the foregoing Clause shall not be held applicable to any original suits or appeals of whatever amount which may be instituted in the Zillah or City Courts, subsequently to the date fixed for the operation of this Regulation, whether those suits be tried by the Zillah or City Judges, or be referred by them for trial to the Sudder Ameens or Registers.

Moonsiffs to furnish monthly statements of suits.

X. The Moonsiffs shall accompany the Monthly Reports required from them by Section LXIII. Regulation XXIII. 1814, with a statement of the suits instituted before them in the preceding month.

Rules regarding the execution of decrees passed by Moonsiffs

XI. All applications for the execution of decrees passed by the Moonsiffs, may at the option of the party, be made in the first instance to the Moonsiff, who on the receipt of such application, is authorized and required to forward the same to the Judge, with an endorsement, noting the names of the parties, an abstract of the decision, the date of the decree, and the date on which a copy of the decree had been given or tendered to the parties; on the receipt of the information furnished as above required, the Judge shall be competent

to direct the Moonsiff to enforce the decree, if for money, and to attach moveable property if necessary for this purpose, as well as to give possession of all other property not being land paying revenue to Government. It shall be nevertheless competent to the Judge, should he deem it preferable to enforce the decree by means of his own Officers, or to employ any of the Sudder Ameens, attached to his Court in the execution of this duty; notice at the same time being given through the Moonsiff to the party applying for the execution of the decree.

Moonsiffs henceforward not to be paid by fees.

XII. *First.* Such parts of Regulation XXIII. 1814, and of Regulation II. 1821, or of any other Regulations in force as authorize Moonsiffs to receive, as a compensation for their trouble in the trial of suits, the amount of the institution fee, or stamp duty substituted for such fee, are rescinded; and shall have no operation in the Zillah or City to which this Regulation may be extended from the date on which it may be directed to have effect in such Zillah or City.

Their monthly allowances will be fixed by the Governor General in Council.

Second. From the date on which this Regulation shall be directed to take effect in any Zillah or City, the Moonsiffs shall, in lieu of the fees and compensation above mentioned, receive from Government such monthly allowances as may be fixed by the order of the Governor General in Council.

Rules regarding the nomination of Sudder Ameens.

XIII. The Zillah and City Judges, in conjunction with the Commissioners of Revenue and Circuit, shall revise the present establishment of Sudder Ameens in the Zillahs and Cities to which this Regulation may be extended—and the selection and number of these officers, as well as of the Moonsiffs, shall be regulated in future in such manner as the Governor General in

Council may be pleased to direct, the office being open to Natives of India of any class or religious persuasion.

Section LXII. Regulation XXIII. 1814, rescinded

XIV. *First.* Section LXII. Regulation XXIII. 1814, is rescinded.

Mahomedan and Hindoo Law officers not necessarily Sudder Ameens

Second. The Mahomedan and Hindoo Law Officers of the Zillah and City Courts, shall not be deemed Sudder Ameens ex-officio, but shall be eligible to the office like other individuals.

Provisions of existing Regulations rescinded.

XV. *First.* Section LXVIII. Regulation XXIII. 1814, Clauses First and Second, Section VII. Regulation XXIV. 1814, Clauses First and Second, Section V. Regulation II. 1821, and Section II. Regulation IV. 1827, declaratory of the powers which may be vested in Sudder Ameens in the decision of original suits are rescinded, and the following rules are enacted in lieu thereof, to be in force from the date of the operation of this Regulation.

Suits for claims of what amount, and of what nature cognizable by Sudder Ameens.

Second. The Zillah and City Judges are hereby declared competent to refer to any of the Sudder Ameens subject to their authority for trial and decision any original suits depending or instituted in their Courts for money or other personal property, or for the property or possession of land, or of other real property, the amount or value of which, calculated according to the rules specified in No. 8 of the Schedule B, referred to in Section XVII. Regulation X. 1829, may not exceed one thousand Rupees. Provided however, that no suit shall be referred for trial to a Sudder Ameen in which he himself or his relatives, or dependants, or the Vakeels or Officers of his Court shall be a party, or in which an European British subject, an European foreigner, or an American shall be a party.

Proviso.

Third. Original suits referred to a Sudder Ameen under the preceding Clause, shall be tried and determined in conformity with the provisions of Regulation XXIII. 1814.

Original suits how to be tried and determined by Sudder Ameens.

Fourth. So much of the rule, contained in Section LXXIV. of the said Regulation which requires that every notice, summons, attachment, or other process relative to any cause depending before a Sudder Ameen shall be issued under the official signature of the Judge or Register, is hereby rescinded, such processes, signed and sealed by the Sudder Ameen, shall issue through their own officers, and not as heretofore under the signature of the Judge through the Nazir of the Court.

Process of the Sudder Ameen how to be issued.

XVI. *First.* Appeals admitted from the decisions of the Moonsiffs have been hitherto referred, at the discretion of the Zillah and City Judges, to the Sudder Ameens, or Registers duly empowered to try them, under the rules contained in Clause Fourth, Section VII. and Clause Fourth, Section IX. Regulation XXIV. 1814, subject to a second or special appeal to the Zillah and City Judges as therein provided.

Rules hitherto in force regarding reference of appeals from the decisions of Moonsiffs, to Sudder Ameens or Registers.

Second. In modification of this provision, however, it is hereby enacted, that it shall not be competent to a Zillah or City Judge to refer any appeal for trial to a Sudder Ameen, even though he may have been specially empowered under the rule above cited, but whenever it may appear to any such Zillah or City Judge that his file is so heavy as to make it impracticable for him to dispose of all the appeals which may be pending with reasonable dispatch, he shall make a special report of the case to the Sudder Dewanny Adawlut, soliciting permission of that authority to refer such specified number of appeals from the decisions of Moonsiffs or Sudder Ameens, as he may deem necessary for

In modification of these rules, whenever the number of appeals before the Judge is heavy, he may obtain permission from the Sudder Dewanny Adawlut to refer a specific number to the Principal Sudder Ameen.

trial, to the Principal Sudder Ameen attached to his Court, to be appointed under the rules prescribed in Section XVII. of this Regulation, in which case it shall be competent to the Court of Sudder Dewanny Adawlut to comply with the application for the transfer, and the rules prescribed in the preceding Clause shall be held applicable to such appeals.

Rules regarding the conduct of appeals by the Judge.

Third. Whenever an appeal shall be preferred to a Zillah or City Judge from the decision of any Moonsiff, Sudder Ameen, or Principal Sudder Ameen, it shall not be necessary to serve any process on the Respondent in the first instance, and if, after the perusal of the record of the original suit and the Petition of Appeal in the presence of the Appellant or his Vakeel, the Judge shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same, and to communicate the order for confirmation through the Court from whose judgment the appeal was made to the Respondent, with a view to enable such Respondent to take immediate measures for the execution of the Decree.

The Governor General in Council may appoint Principal Sudder Ameens.

XVII. *First.* It shall be competent to the Governor General in Council to appoint to any Zillah or City Jurisdiction one or more Principal Sudder Ameens, with the powers hereinafter specified.

Persons eligible to the office and how to be nominated.

Second. The office of Principal Sudder Ameen shall be open to Natives of India of any class or religious persuasion—The persons selected for the office shall be appointed by the Governor General in Council, and shall receive their Sunnuds or Commissions from Government, under the signature of the Secretary in the Judicial Department.

Monthly allow-

Third. The Principal Sudder Ameens will receive

such monthly allowances as may be fixed by the Governor General in Council.

ances to be fixed by the Governor General in Council.

Fourth. Every person appointed to the office of Principal Sudder Ameen shall, previously to entering upon the execution of the duties of his situation, make and subscribe before the Judge of the Zillah or City in which he may be employed, the solemn declaration required by Section II. Regulation XVIII. 1817.

Declaration to be made by the Principal Sudder Ameens.

XVIII. *First.* The Zillah and City Judges are authorized to refer to the Principal Sudder Ameens any original suits depending or instituted in their Courts for money or other personal property, or for the property or possession of land or other real property, the amount or value of which, calculated according to the rules specified in No. 8 of the Schedule B, referred to in Section XVII. Regulation X. 1829, may not exceed five thousand Rupees—Provided that no suit be referred to a Principal Sudder Ameen in which he himself, or his relatives, or dependants, or the Vakeels or Officers of his Court shall be a party, or in which an European British subject, or an European Foreigner, or an American shall be a party.

Suits for claims of what amount and of what nature cognizable by Principal Sudder Ameens.

Second. The Principal Sudder Ameens are themselves to investigate the suits referred to them in a public Cutcherry or Court room, and are not to allow their officers, servants, or dependants, or any other person to interfere therein.

Suits where and how to be investigated by Principal Sudder Ameens.

Third. It shall be competent to the Zillah and City Judge to authorize any of the Vakeels of his Court, or of those attached to the Sudder Ameens, to practise in the Court of the Principal Sudder Ameen.

What Vakeels to practise in their Courts.

Fourth. In the trial and decision of original suits

Rules to be ob-

served by Principal Sudder Ameens in the trial and decision of cases that come before them.

and appeals referred to them, the Principal Sudder Ameen shall be guided by the rules established for the conduct of business in the Courts of the Sudder Ameens. And in points not expressly provided for by those rules, they shall observe as nearly as may be practicable the rules prescribed in the Regulations for the guidance of the Zillah and City Courts.

Process how to be issued

Fifth. The rule contained in Clause Fourth, Section XV. of this Regulation, shall be applicable to the processes issued by the Principal Sudder Ameens.

Section III. Regulation III declared applicable to Principal Sudder Ameens.

Additional powers to be exercised by those Officers in Criminal matters.

Sixth. In addition to the rules contained in Section III. Regulation III. 1821, which are hereby declared applicable to the Principal Sudder Ameens appointed under this Regulation, it shall be competent to the Magistrate to refer to a Sudder Ameen or Principal Sudder Ameen, not being a Mahomedan Law Officer, any Criminal case for investigation, though such case may not be finally cognizable by such Sudder Ameen, provided however, that no commitment be made by those officers, and that their powers of awarding punishment in Criminal matters, under the existing Regulations, be not exceeded.

Special or summary appeals from the decisions of Principal Sudder Ameens how to be admitted — review of judgment how to be applied for.

XIX. *First.* The provisions contained in Sections II. and III. Regulation XXVI. 1814, with any modifications of them which may have been since enacted, regarding the admission and hearing of special and summary appeals, as well as the rule contained in Clause Second, Section IV. of the aforesaid Regulation, relative to the review of judgments, shall be held applicable to original suits and appeals tried by Principal Sudder Ameens.

Rules regarding review of judg-

Second. If the Principal Sudder Ameen shall be of opinion that the review applied for ought to be admit-

ments by Principal Sudder Ameens.

ted, he shall report the case to the Zillah or City Judge, who is authorized to grant permission under the same rules as are prescribed by the existing Regulations in cases where similar applications may be made to the Court of Sudder Dewanny Adawlut.

Duties chargeable on Law papers in the Sudder Ameens' Courts.

XX. The duties chargeable on Law papers in the Courts of the Principal Sudder Ameens shall be regulated according to the rates fixed in Schedule B, referred to in Section XVII. Regulation X. 1829, for the Courts of the Zillah and City Judges.

Rules in Section X. Regulation XXVI. 1814, to be observed by Principal Sudder Ameens.

XXI. In the trial of original suits and appeals, the Principal Sudder Ameens are enjoined to conform strictly to the mode of procedure directed to be observed by Section X. Regulation XXVI. 1814, before any exhibits are filed or witnesses summoned in support of the allegations of either of the parties.

Decrees passed by the Principal Sudder Ameens, how to be executed.

XXII. Decrees passed in the Courts of the Principal Sudder Ameens shall be executed by those Courts under the general rules prescribed for the execution of decrees passed by the Zillah and City Judges—Provided however, that in such cases an appeal from the orders of the Principal Sudder Ameens shall lie, in the first instance, to the Zillah and City Judges, and specially to the Sudder Dewanny Adawlut.

Reports to be furnished by the Principal Sudder Ameens.

XXIII. The Principal Sudder Ameen shall furnish such monthly and other periodical reports of business done in their Courts, as the Sudder Dewanny Adawlut may be pleased to direct.

Judges retaining on their own files cases referrible to the Sudder Ameen or Principal Sud-

XXIV. Whenever the Zillah and City Judges shall retain, on their own files, any original suits which they are authorized by this Regulation to refer to a Sudder

der Ameen, to record their reasons.

Ameen, or Principal Sudder Ameen, they shall record their reasons for doing so upon their proceedings.

Sudder Ameens and Principal Sudder Ameens competent to appoint and remove their own officers.

XXV. *First.* The Sudder Ameens and Principal Sudder Ameens are authorized to appoint and remove the ministerial officers of their respective Courts, without reference to any other authority.

Such Officers liable for misconduct to the same penalties as other officers of the Judge's Court.

Second. The ministerial officers of the Courts of the Sudder Ameens and Principal Sudder Ameens shall be liable to the same penalties for acts of corruption, extortion, or other misconduct, as the ministerial officers of the Zillah and City Courts are now liable under the general Regulations.

Rules regarding the dismissal of Sudder Ameens and Principal Sudder Ameens.

XXVI. *First.* In modification of the existing rules regarding the removal of Sudder Ameens, it is hereby enacted that it shall not be necessary, in all cases, to require full and legal proof of disqualification, but that whenever a Zillah or City Judge shall have reason to believe that any Principal or other Sudder Ameen within his jurisdiction is disqualified by neglect of duty, incapacity, notorious corruption, or other gross misconduct, he shall state the grounds of his opinion to the Commissioner of Revenue and Circuit for the Division, and provided that officer concur with him in opinion, they shall jointly submit a report thereof for the consideration and orders of the Governor General in Council through the Secretary to Government in the Judicial Department; and it shall be competent to the Governor General in Council, should he be of opinion that sufficient grounds exist, to direct the immediate removal of such Principal or other Sudder Ameen, provided however, that no Principal or other Sudder Ameen shall be removed from office, without the sanction of the Governor General in Council.

Rules regarding the dismissal of Moonsiffs.

Second. The above rules are hereby declared applicable to the Moonsiffs, who may be appointed under this Regulation, except that any report suggesting the removal of any officer of that class, shall be made to the Sudder Dewanny Adawlut, who shall be competent to exercise the powers declared to belong to the Governor General in Council by the preceding Clause, with respect to the Sudder Ameens and Principal Sudder Ameens.

The Judge competent to suspend a Principal Sudder Ameen, Sudder Ameen, or Moonsiff, against the opinion of the Commissioner of the Division.

Third. Provided also that it shall be competent to a Judge of a Zillah or City Court, whenever he may see urgent necessity for so doing, to suspend any Principal Sudder Ameen, Sudder Ameen, or Moonsiff, within his jurisdiction, without any previous communication with the Commissioner of the Division; and in all cases in which the Commissioner of the Division may dissent from the Judge as to the propriety of removing any of the officers above named, it shall be competent to the Judge to submit his own opinion to that effect to the Governor General in Council, or the Court of Sudder Dewanny Adawlut, as the case may be, such report, however, to be accompanied by a copy of the dissent which the Commissioner may deem it necessary to record on the occasion.

The Commissioner of the Division competent to recommend the dismissal of a Principal Sudder Ameen, Sudder Ameen, or Moonsiff, contrary to the opinion of the Judge.

Fourth. Provided also that it shall be competent to any Commissioner of Revenue and Circuit to recommend, on grounds assigned, the removal of any Moonsiff, Sudder Ameen, or Principal Sudder Ameen; but every such recommendation shall be previously submitted through the Judge of the Zillah or City, whose assent or dissent shall accompany the recommendation to the Court of Sudder Dewanny Adawlut, or the Governor General in Council, as the case may be.

Principal Sudder

Fifth. Principal Sudder Ameens shall be liable to

Ameens liable to Criminal prosecution for corruption or extortion.

a Criminal prosecution for corruption, extortion, or other misdemeanor committed by them in the discharge of any part of their duty, and on conviction before the Court of Circuit, shall be subject to fine and imprisonment proportionate to the nature and circumstances of the case, but no Principal Sudder Ameen shall be liable to be prosecuted for want of form, or for error in his proceedings or judgments, nor shall any process be issued against a Principal Sudder Ameen who may be charged with corruption, extortion, or any oppressive and unwarranted act of authority, unless the Zillah or City Judge shall be previously satisfied by sufficient evidence that there is reason to believe the charge to be well founded.

Jurisdiction of Provincial Court to be suspended wherever this Regulation may be extended.

XXVII. *First.* Into whatever Zillah or City the Governor General in Council, under the power vested in him by Section II. of this Regulation, shall see fit to extend the provisions of this Regulation, the Provincial Court of Appeal shall, from the date fixed by the Governor General in Council for the commencement of the operation of the Regulation, cease to receive original suits, and to hear appeals from such Zillah or City, or to exercise jurisdiction or control over it, in any matter which may arise, or with reference to any suit which may be preferred subsequent to the date aforesaid.

But suits then pending before the Provincial Courts to be disposed of by them.

Second. Provided always, that all suits and all appeals, regular, special or summary, that may be pending before the Provincial Court on the date aforesaid from such Zillah or City, shall be brought to a hearing, decided, and finally disposed of by the Provincial Court, in the same manner as would have been the case if the Provisions of this Regulation had not been extended to such Zillah or City.

The Judges in

Third. From and after the date aforesaid, the

Judge of the Zillah or City Court into which the provisions of this Regulation may be introduced, shall have primary jurisdiction in all suits, in which the value or amount of the claim may exceed five thousand Rupees, any thing in the existing Regulations to the contrary notwithstanding.

such district to have primary jurisdiction in all suits in which the value of the claim exceeds 5000 Rupees.

XXVIII. *First.* In appeals from the decisions of the Moonsiffs or Sudder Ameens, the decisions of the Zillah or City Judges shall be final, any thing in the existing Regulations to the contrary notwithstanding.

The decisions of Zillah or City Judges on appeals from the Sudder Ameens or Moonsiffs to be final.

Second. In all suits originally decided by the Principal Sudder Ameens, an appeal shall lie to the Zillah, or City Judge, and a further or special appeal, under the provisions of the Regulations applicable to such cases, to the Sudder Dewanny Adawlut.

In suits decided by the Principal Sudder Ameen, a regular appeal to lie to the Judge—a special appeal to the Sudder Dewanny Adawlut.

Third. In all suits originally decided by the Zillah or City Judge, an appeal shall lie to the Sudder Dewanny Adawlut.

In all suits originally decided by the Judge, an appeal to lie to the Sudder Dewanny Adawlut.

XXIX. *First.* Section II. Regulation VIII. 1794, and the corresponding enactments which authorize the reference of Civil suits for trial to the Registers attached to the several Zillah and City Courts, are hereby rescinded; and the several Judges in those places into which the provisions of this Regulation shall have been introduced are hereby authorized and required to recall from the files of those officers all suits which may be depending thereon, and to refer the same for trial as the amount may be to the Sudder Ameens or Principal Sudder Ameens, who have been or may be appointed under the provisions of this enactment.

Rules which authorize the reference of Civil suits to Registers rescinded; Judges required to recall all pending suits and to refer them for trial to Sudder Ameens or Principal Sudder Ameens, as the amount may be.

Second. Nothing however in the above Clause shall be construed to prevent the Registers from disposing of

Proviso.

such causes as may be actually pending on their files at the date of the promulgation of this Regulation in those districts in which Government may not intimate an intention of giving immediate effect to the provisions of this enactment.

Office of Vakeel to be open to all Natives of India.

XXX. So much of Clause Third, Section III. Regulation XXVII. 1814, as restricts the Judges of the several Courts in the nomination and appointment of persons to the office of Vakeels to individuals of the Hindoo and Mahomedan persuasion, is hereby rescinded; and that office shall, in future, be open to all Natives of India, whatever may be their religious belief or persuasion.

NOTE.

In this Compilation only the Regulations passed for the Provinces of Bengal, Behar and Orissa, have been cited; for the benefit of those who may use it in the Western Provinces, it seems necessary to point out the corresponding enactments for the Province of Benares, as well as for the Ceded and Conquered Provinces, which are annexed beneath. Whenever any portion of a Regulation quoted in the work is not to be found in the first column of the following table, the reader will consider that it was passed after Benares and the Ceded and Conquered Provinces had been annexed to the British Empire, and therefore applies equally to all the Provinces.

BENGAL, &c.				BENARES.				C. & C. PROVINCES.			
Reg.	*Year.*	*Sect.*	*Cl.*	*Reg.*	*Year.*	*Sect.*	*Cl.*	*Reg.*	*Year.*	*Sect.*	*Cl.*
3	1793	14		7	1795	8		2	1803	18	
...	.....	15		...	.....	9		—	——	—	
...	.....	19		...	.....	11		...	.....	20	
4	.....	2		8	.....	2		3	.....	2	
...	.....	3		...	.....	...		...	.....	3	
...	.....	5		...	.....	...		...	.....	5	
...	.....	6		...	.....	...		...	.....	6, 7	
..	.....	7		...	.....	...		...	.....	9	
...	.....	8		..	.....	...		...	.....	10	
...	.....	10		...	.....	...		...	.....	12	
...	.....	13		..	...	..		...	.....	15	
...	.....	15		...	.....	3	2	...	.....	16	
...	.....	16		...	.....	...		...	.....	17	
...	.....	20		...	.....	4	3	...	.....	21	
...	.....	22		...	.....	5		...	.....	23	
...	.....	23		...	.....	6	2	...	.....	24	

BENGAL, &c.				BENARES.				C. & C. PROVINCES.			
Reg	*Year.*	*Sect.*	*Cl.*	*Reg.*	*Year.*	*Sect.*	*Cl.*	*Reg.*	*Year.*	*Sect*	*Cl.*
4	1793	24		8	1795	7		3	1803	25	1
.	...	25		...	.....	8			.....	26	
...		26		...	.	2				27	
8	.	52		51	.. .	9		30	.....	2	
...	.....	54		—	——	—		...	... ..	4	
...	.....	55		—	——	—		...	.....	5	
...	.....	56		—	——	—		...	.....	6	
...	.....	57	1	—	——	—		...	.....	7	1
...	... .	57	2	—	——	—		. .		7	2
...	.....	59		51	.....	7		..	.....	11	
...	.....	67	1	—	——	—		..	.... .	2	
13	.....	9	1	12	.....	2		12	.....	12	1
...	.....	9	3	...	.....	. .		...	.....	12	3
...	.....	9	4	...	.. ...	...		...	.....	12	4
...	.....	9	7	...	.....	...		...	.....	12	7
...	.....	9	8	...	.....	...		...	.....	12	8
...	.....	9	12	...	.....	..		...	.....	12	12
15	.. ...	5		17	1806	2		34	.....	4	
...	.....	6		...	.....	...		...	.....	5	
...	.....	7		...	.....	...		...	.....	6	
...	.....	8		...	.....	...		...	.....	7	
...	..	9		...	.....	...		...	.....	8	
...	.....	10		...	.....	6		...	.....	9	
. .	.....	11		...	.....	5		...	.....	10	
...	.....	12		...	.....	...		...	.....	11	
16	.....	2		15	1795	2		21	.....	2	
...	.....	3		...	.....	...		...	.....	3	
...	.....	4		...	... ..	...		...	.....	4	
...	.....	5		...	.....	...		...	.....	5	
...	.....	6		...	.....	...		...	.. ...	6	
...	.....	7		...	.....	...		...	.....	7	
...	.....	8		...	.....	...		...	.....	8	
...	.....	9		.	.....	...		...	.....	9	
17	... ..	2		45	.....	2		28	.....	2	
...	.....	3		...	.....	3		...	.....	3	
...	.....	4		...	.....	4		...	.....	4	
...	.....	5		...	.....	5		...	.....	5	
...	.....	6		...	.....	6		...	.....	6	

BENGAL, &c.				BENARES				C. & C. PROVINCES.			
Reg.	*Year.*	*Sect.*	*Cl.*	*Reg.*	*Year.*	*Sect.*	*Cl.*	*Reg.*	*Year.*	*Sect.*	*Cl*
17	1793	7		45	1795	7		28	1803	7	
...	.....	8		...	.....	8		...	.....	8	
...	.....	11		...	.....	9		...	.....	9	
...	.....	12		...	.....	10		...	.....	10	
...	.....	13		...	.....	11		...	.....	11	
...	.....	14		...	.. ..	12		...	.....	12	
...	.....	15		...	.....	13		...	.....	13	
...	.....	16		...	.....	14		...	.....	14	
...	.....	17		...	.....	15		...	.....	15	
...	.....	18		...	.....	16		...	.....	16	
...	.....	19		...	.....	17		...	.....	17	1
...	.... .	20		...	.....	18		...	.....	18	
...	.....	21		...	.....	19		...	.....	19	1
...	.....	22		...	.. ...	20		...	.....	20	1
...	.....	23		...	. .	21		...	.....	21	
...	...,..	24		...	.....	22		...	.....	22	
...	.....	25		...	... .	23		...	.....	23	
...	.....	27		...	.....	25		...	.....	25	
31	.....	9	2	4	1805	2		37	.....	9	2
44	.....	8		50	1795	7		47	.....	8	
45	.....	2		20	..,...	2		26	.....	16	
...	.....	5		...	.....	5		...	.....	19	
...	.....	6		...	.....	6		...	.....	20	
...	.....	7		...	.....	7		...	. ....	21	
...	.....	12		...	.....	12		—	——	—	
...	.....	16		...	.....	16		...	.....	24	
...	.....	17		...	.....	17		...	.....	26	
4	1794	5		51	.....	7		30	.....	11	
...	.....	6		...	.....	9		...	.....	9	
35	1795	5		45	.....	20		28	.....	20	
...	.....	7		...	.....	24		...	.....	24	
...	.....	8		...	.....	27	2	...	.....	27	3
58	.....	3		—	——	—		3	.....	11	
...	.....	4		—	——	—		...	.....	...	
13	1796	3		—	——	—		4	.....	35	
11	1797	3		—	——	—		2	1806	4	
1	1798	2		—	——	—		34	1803	12	
...	.....	3		—	——	—		...	.....	13	

BENGAL, &c.				BENARES.				C. & C. PROVINCES.			
Reg.	*Year.*	*Sect.*	*Cl.*	*Reg.*	*Year.*	*Sect.*	*Cl.*	*Reg*	*Year.*	*Sect.*	*Cl.*
1	1798	4		—	——	—		34	1803	14	
...	.....	5		—	——	—		...	.....	15	
2	.....	4		—	——	—		3	.....	16	1
5	.....	4, 5		—	——	—		4	.....	14	1, 2
...	.....	6		—	——	—		...	.....	12	9
7	1799	5		—	——	—		28	1803	20	2
...	.....	6		—	——	—		...	.....	...	...
...	.....	7		—	——	—		...	.....	...	3, 4
...	.....	9		—	——	—		...	.....	17	2
...	.....	10		—	——	—		...	.....	19	2
...	.....	11		—	——	—		...	.....	...	3
9	.....	3		—	——	—		3	.....	23	

GUIDE BOOK.

CHAPTER I.

Moonsiffs.

SECT. I.

Rules for the Nomination of Moonsiffs.

Rules for the nomination of Moonsiffs.

1. In modification of the provisions contained in Sections 6 and 7, Regulation XXIII. 1814, and Section 2, Regulation II. 1821, the Judges of the Zillah and City Courts, in conjunction with the Commissioner of Revenue and Circuit, shall revise the existing establishment of Moonsiffs in the Zillahs and Cities to which this Regulation may be extended, and the selection and number of those officers shall be regulated in such manner as the Governor General in Council may be pleased to direct, the office being open to Natives of India of any class or religious persuasion.—*Reg.* V. 1831, *Sect.* 3.

SECT. II.

Description of Suits cognizable by Moonsiffs.

Clauses of Regulations rescinded.

2. Clause First, Section 13, Regulation XXIII. 1814; Section 12, Regulation XIX. 1817, and Clauses First and Second, Section 3, Regulation II. 1821, are hereby rescinded.—*Reg.* V. 1831, *Sect.* 4.

Descriptions of suits cognizable by Moonsiffs.

3. Persons invested with the powers of Moonsiffs are hereby empowered to receive, try, and determine all suits of the

following descriptions, provided the landed or other real property to which the suit may relate shall be situated, or provided, in all other cases, the cause of action shall have arisen, or the defendant, at the time when the suit may be commenced, shall reside as a fixed inhabitant, within the limits to which their respective jurisdictions may extend.—*Reg.* V. 1831, *Sect.* 5, *Cl.* 1.

Suits for personal property to the value of 300 Rupees, cognizable by Moonsiffs.

4. For money or other personal property, not exceeding in amount or value the sum of three hundred Rupees, provided the claim include the whole amount of the demand arising from the cause of action, and be not for damages on account of alleged personal injuries, or for personal damages of whatever nature.—*Reg.* V. 1831, *Sect.* 5, *Cl.* 2.

Suits for real property, to the value of 3000 Rupees, cognizable by Moonsiffs.

5. For the property or possession of land or other real property, with the exception of land held exempt from the payment of revenue, the computed value of which shall not exceed three hundred Rupees.—*Reg.* V. 1831, *Sect.* 5, *Cl.* 3.

City and Zillah Judges to encourage the institution of regular, instead of summary suits, in certain cases.

6. By Section 20, Regulation V. 1812, it is provided, that suits instituted under that Regulation for the recovery of arrears of rent may be decided by the Zillah and City Judges on summary enquiry; it was not however intended by that provision to preclude individuals from instituting a regular suit in the first instance for the more formal investigation of the merits of the case, either before the Moonsiffs or in the Zillah and City [or Provincial]* Courts, according to the amount at issue, and the Zillah and City Judges are hereby enjoined to encourage, as much as possible, that mode of procedure, as well in the suits above adverted to, as in all other claims for arrears of rent, which may be cognizable by summary process under the existing rules, whenever it may in their opinion lead to a more prompt and satisfactory determination of the points at issue.—*Reg.* II. 1821, *Sect.* 4.

---

* The words enclosed in brackets do not apply to Moonsiffs.

SECT. III.

Description of Suits which are not cognizable by Moonsiffs.

Moonsiffs prohibited from receiving and trying certain suits.

7. The prohibitions contained in the Second Clause of Section 13, Regulation XXIII. 1814, are hereby declared applicable to the suits above-mentioned.—*Reg.* V. 1831, *Sect.* 5, *Cl.* 4.

Moonsiffs prohibited from trying suits in which certain classes of persons may be parties.

8. The Moonsiffs are prohibited from hearing, trying or determining any suits in which they themselves, or their relatives, or dependants, or the Vakeels, or other persons employed in their cutcherries, may be parties, or in which a British subject, or an European foreigner, or an American may be a party.—*Reg.* XXIII. 1814, *Sect.* 13, *Cl.* 2.

Particular provisions applicable to suits in formâ pauperis.

9. Moonsiffs further prohibited from receiving any suits, which persons may be desirous to prefer before them in *formâ pauperis;* but it shall be competent for the Judge to refer for trial to the Moonsiffs, within his jurisdiction, any such suits which may have been instituted before him, and would otherwise have been cognizable by them whenever he may think proper so to do.—*Reg.* V. 1831, *Sect.* 5, *Cl.* 5.

SECT. IV.

Rules for computing the Period within which Suits are cognizable by Moonsiffs.

Rule for computing the period within which suits are cognizable, and the value of the property in litigation in the Moonsiffs' Courts.

10. The Rules prescribed in the existing Regulations in regard to the period within which suits may be admitted in the Zillah and City Courts, as well as in regard to the mode of computing to the value of the property in litigation, shall be held applicable to suits preferred to the Moonsiffs.—*Reg.* V. 1831, *Sect.* 5, *Cl.* 6.

Courts not to try the merits of any suit, where the cause of action shall have arisen before the 12th August 1765. Nor any suit

11. The Zillah and City Courts are prohibited hearing, trying, or determining, the merits of any suit whatever, against any person or persons, if the cause of action shall have arisen previous to the 12th of August 1765; or any

where the cause of action shall have arisen twelve years before a suit shall have been commenced for it.

Exception to the rule.

suit whatever against any person or persons, if the cause of action shall have arisen twelve years before any suit shall have been commenced on account of it; unless the complainant can shew, by clear and positive proof, that he had demanded the money or matter in question, and that the defendant had admitted the truth of the demand, or promised to pay the money; or that he directly preferred his claim within that period for the matters in dispute, to a Court of competent jurisdiction to try the demand, and shall assign satisfactory reasons to the Court why he did not proceed in the suit; or shall prove that either from minority, or other good and sufficient cause, he had been precluded from obtaining redress.—*Reg.* III. 1793, *Sect.* 14.

[This enactment was extended to the Province of Benares, by Regulation VII. 1795, Section 8, and to the Ceded and Conquered Provinces, by Reg. II. 1803, Section 18.]

Limitation of twelve years also declared not applicable to private claims of right to immoveable property, if the person in possession shall have acquired possession by violence, fraud, or other unjust, dishonest means, or if the person, from whom the actual occupant derived his title, shall have acquired possession by such means; and the property may not have been subsequently held, under a fair title believed to convey right, for twelve years.

12. The limitation of twelve years, fixed by Section 14, Regulation III. 1793, Section 8, Regulation VII. 1795, and Section 18, Regulation II. 1803, shall also not be considered applicable to any private claims of right to lands, houses, or other permanent, immoveable property; if the person or persons in possession of such property, when the claim of right thereto may be preferred in a competent Court of Judicature, shall have acquired possession thereof by violence, fraud, or by any other unjust, dishonest means whatever; or if such property shall have been so acquired by any other person or persons, from whom the actual occupant or occupants may have derived his or their title, and shall not have been subsequently held under a just and honest title, (such as inheritance, purchase, fair donation, or any other fair title believed to have conveyed a right of possession and property,) during a period of twelve years antecedent to the time of preferring a claim of right thereto in a competent Court: provided that such violent, fraudulent, unjust, or dishonest acquisition be established to the satisfaction of the Court in which the claim may be preferred; or if the suit be appealable, to the satisfaction of the proper Court of Appeal.—*Reg.* II. 1805, *Sect.* 3, *Cl.* 1.

Provided that such violent, fraudulent, unjust, or dishonest acquisition, be established.

13. In all such cases, viz. when the original cause of action may have arisen more than twelve years before the institution of the suit, and the claim may not be cognizable under the exceptions and provisions contained in the Regulations and Sections above cited, but may be nevertheless cognizable under the provision made by the preceding Clause, from the defendant's having acquired possession of the claimed property by violence, fraud, or other unjust and dishonest means; or from the property, after being so acquired by any other person, not having been subsequently held by the present occupant and his predecessors under a just and honest title during the prescribed period of twelve years; the plaintiff shall set forth the same distinctly, either in his petition of plaint or in his replication. The Court, after taking the answer and rejoinder of the defendant, shall, if the alleged unjust and dishonest acquisition be denied by the defendant, examine any evidence that may be adduced by the plaintiff in proof of his allegation; as well as any evidence that may be brought by the defendant to prove his just and honest acquisition of the property claimed, or the just and honest possession thereof by himself and his predecessors during more than twelve years; after which the Court shall determine whether the suit in question be cognizable under the present rule and section or otherwise; and if such determination be in favour of the plaintiff, or in appealed cases, if a determination for the cognizance of the suit be passed by the Court of Appeal; the merits of the plaintiff's claim of right shall be heard, tried, and determined, notwithstanding the lapse of time, in like manner as if the claim had been regularly preferred within twelve years after the origin of the cause of action.—*Reg.* II. 1805, *Sect.* 3, *Cl.* 2.

Mode of proceeding to be observed in the cases provided for by the preceding clause.

Plaintiff to set forth the circumstances of unjust, or dishonest acquisition in his plaint or replication.

Evidence to be taken from both parties, if the allegation be denied by the defendant.

Determination to be passed by the original Court; by the Court of Appeal, in appealed cases.

And claim of right, if declared cognizable to be tried and determined, as if preferred within twelve years after the origin of the cause of action.

14. Provided, that nothing in the preceding Clause of this Section, or in any part of the existing Regulations, shall be held to authorize the cognizance of any suit whatever in any Court of justice, if the cause of action shall have arisen sixty years before the institution of such suit; nor shall any plea on the part of the plaintiff for the non-prosecution of his claim of right during a period of years after the origin of his

No suit whatever to be held cognizable, in any Court of justice, if the cause of action shall have arisen sixty years before the institution of it. Clauses first and second of this section further declared inapplicable to any private

claims to property acquired by an insufficient title within sixty years, if held by the actual occupant, or in his behalf, or by the persons from whom he may have obtained it without molestation, and under a title believed to be just and valid, during twelve years antecedent to the institution of the suit.

alleged cause of action, nor any original defect of title on the part of the possessor of the property claimed after the lapse of such period, be deemed a sufficient ground for taking judicial cognizance of any suit so preferred. Moreover, although the property claimed may have been acquired by an insufficient title within the period of sixty years, hereby fixed as the utmost limit for the cognizance of any claims in the established Courts of justice, if the property so acquired shall have descended by inheritance to the person in possession when the claim thereto may be preferred after a lapse of twelve years; or if such person shall have obtained just and honest possession thereof by purchase, fair donation, or by any other title believed to be just and valid, and not appearing to be in any respect collusive, for the purpose of depriving the plaintiff of his right, and either such occupant himself, or any other person in his behalf, or from whom the property may have been obtained, under any of the titles aforesaid, or the whole in succession shall have held quiet and unmolested possession, under a title believed to be just and valid, during a period of twelve years antecedent to the time of a claim thereto being preferred in a competent Court; the provisions made by Clauses First and Second of this Section, shall not be considered applicable to any private claims to property so circumstanced, which are therefore to be deemed inadmissible as heretofore after twelve years from the origin of the cause of action, unless the same be cognizable under the exceptions and provisions already in force.—*Reg.* II. 1805, *Sect.* 3, *Cl.* 3.

Provisions already in force, as stated in clause second of this section, applicable to all such cases.

Further provision for cases of mortgage and deposit.

No length of time to bar the cognizance of suits for the recovery of property in such cases.

Nor in any case wherein the possession shall not have been under a title believed to have conveyed a right of property to the possessor.

15. Provided further, that no length of time shall be considered to establish a prescriptive right of property, or to bar the cognizance of a suit for the recovery of property, in cases of mortgage, or deposit, wherein the occupant of the land or other property may have acquired, or held possession thereof as mortgagee or depositary only, without any proprietary right; nor in any other case whatever wherein the possession of the actual occupant, or of those from whom his occupancy may have been derived, shall not have been under a title bonâ fide believed to have conveyed a right of property to the possessor.—*Reg.* II. 1805, *Sect.* 3, *Cl.* 4.

SECT. V.

Rules for computing the Value of the Property in Litigation.

What a complaint preferred to a Zillah or City Court is to contain.

16. Every complaint that may be presented to the Court of Dewanny Adawlut of any Zillah, or of either of the Cities of Patna, Dacca, or Moorshedabad, is to state precisely the matter of complaint. If it be concerning a zemindaree or an independent or a dependant talook, or any landed property being [lakheraje (exempt from the payment of revenue to Government,) or] malguzaree (subject to the payment of revenue to Government,) it is to state the amount of the annual produce of the land according to the most accurate estimate which the claimant may be able to procure. To obviate all doubt respecting what is meant by the annual produce of [lakheraje and] malguzaree lands, it is declared to be the aggregate of the sums that may have been paid under the Regulations by the dependent talookdars, underfarmers and ryots, on account of the year in which the claim may be preferred, and that would be payable by them were the claimant to be put into possession of the lands during that year. If the complaint is for a house, garden, tank, or any real property not being malguzaree or lakheraje land, or any valuable thing, [or relating to marriage or caste, or for damages for any injury,] it is to state according to the nearest estimate the exact sum of money, or the amount in which the plaintiff may be endamaged.—*Reg.* IV. 1793, *Sect.* 3.

If it is for malguzaree or lakheraje land, the annual produce is to be specified.

What is meant by the annual produce.

If for any other property or money or damages, the amount or value, or the sum in which the party may be endamaged, is to be specified.

[This enactment was extended to Benares by Regulation VIII. 1795, Section 2, and the Ceded and Conquered Provinces, by Regulation III. 1803, Section 3.]

In suits for land paying revenue to Government, the value of the property how to be assumed.

17. In suits for land paying revenue to Government, the value of the property shall be assumed in the Ceded and Conquered Provinces, including Cuttack, at the amount of the annual jumma payable on account of the land in question to Government; and in the Provinces of Bengal, Behar, Benares and Orissa, excepting Cuttack as already noticed, at three times the amount of the annual jumma payable on

account of the land to Government.—*Reg.* I. 1814, *Sect.* 14, *Cl.* 1.

In suits for houses, gardens, or other property, and in actions for the recovery of damages in matters relating to marriage, &c. the value how to be estimated.

18. In suits for houses, gardens, tanks, or other property, real or personal, excepting the two descriptions of lands mentioned in the two preceding clauses, [and in actions for the recovering of damages in matters relating to marriage, caste, or any personal injury,] the value shall be estimated according to the rule contained in Section 3, Regulation IV. 1793, and Section 3, Regulation III. 1803.—*Reg.* I. 1814, *Sect.* 14, *Cl.* 3.

In suits for malguzaree land, not distinctly assessed, how the value of the property is to be assumed.

19. It being declared in Section 23, Regulation XXVI. 1814, that in suits for malguzaree land, not constituting an entire estate, distinctly assessed, or a specific proportion of such estate, the value of the land claimed is to be assumed and estimated according to Clause 3, Section 14, Regulation I. 1814, and a doubt having been entertained in what manner the rule cited in that clause from Section 3, Regulation IV. 1793, and Section 3, Regulation III. 1803, should be applied to the valuation of malguzaree lands, not distinctly assessed for the public revenue in some cases; particularly in boundary disputes, when the judgment for or against the plaintiff, may not occasion any alteration in the public assessment; it is hereby explained, that in all claims to a right of property, or to a permanent tenure of any description, in malguzaree land, not constituting an entire estate, distinctly assessed, with a sudder jumma payable to Government; or a specific proportion of such an estate, so as to come within the rule prescribed in the First Clause of Section 14, Regulation I. 1814, the value of the land sued for is to be assumed at its computed annual rent produce, as described in Section 3, Regulation IV. 1793, and Section 3, Regulation III. 1803. If the suit be not for a right of property, or for a permanent tenure, but for a farm leasehold of any denomination, during a limited term; or for any interest in the land during a limited period only; the valuation of the plaintiff's claim, in pursuance of the Regulations above-mentioned, is to be made according to the nearest estimate that can be formed of the actual value of the thing sued for; [or

In cases where the suit is not for a right of property how the valuation is to be formed.

if the suit be for damages, the amount in which the plaintiff is endamaged.]—*Reg.* XIX. 1817, *Sect.* 5.

SECT. VI.

Provision for the due Administration of Hindoo and Mahomedan Law in certain cases.

Local rules for Moonsiffs in Zillah Chittagong, rescinded.

20. The local rules for Moonsiffs in Zillah Chittagong, contained in Sections 57, 58, and 59, Regulation XXIII. 1814, are rescinded; and the following Clauses of the Section last mentioned, are re-enacted for the observance of the Moonsiffs generally.—*Reg.* V. 1831, *Sect.* 6, *Cl.* 1.

Provision for the due administration of the Mahomedan and Hindoo Civil Law in certain cases.

21. In all cases of inheritance of, or succession to, landed property, the Mahomedan Laws with respect to Mahomedans, and the Hindoo Laws with regard to Hindoos, are to regulate the decision; and the Moonsiffs, in all such cases where doubts exist, are to obtain an exposition of the Laws from the Law Officers of the Zillah Court, to whom they are to transmit a written abstract of the case for this purpose; such exposition however is not to preclude a further reference to the Law Officers of the Zillah Courts, upon such points of Law as may arise upon the cause, in the event of its being tried in appeal. In causes in which the plaintiff is of a different religious persuasion from the defendant, the decision is to be regulated by the law of the latter, provided that this rule is limited to cases in which the defendant is either a Mahomedan or a Hindoo.—*Reg.* V. 1831, *Sect.* 6, *Cl.* 2.

SECT. VII.

Provision for Cases in which the above Rules cannot apply.

In all other cases Moonsiffs to act according to justice, equity, and good conscience.

22. In cases in which the above rules cannot be applied, the Moonsiffs are to act according to justice, equity, and good conscience.—*Reg.* V. 1831, *Sect.* 6, *Cl.* 3.

SECT. VIII.

Cases of Succession to real Property.

Rules to be observed in cases of succession to real property.

23. In all suits concerning the succession or right of inheritance to a zemindaree, talook, land, house, or other real property, the Moonsiffs are to affix in some conspicuous part of their cutcherries, and to publish in the village, in or near to which the property is situated, a written notification of the claim preferred, with a requisition to all persons who may have any claim to the property sued for, to prefer the same within a limited period; and they are not to pass a decree in such suits, when there are more claimants than one, who by the Hindoo or Mahomedan Law (respect being had to the religion of the claimants) would be entitled to a portion of the property, excepting the property be by the decree adjudged to all the claimants in the proportions to which they may be respectively entitled.—*Reg.* V. 1831, *Sect.* 6, *Cl.* 4.

SECT. IX.

Institution of Suits in the Moonsiffs' Courts.

Suits within the competency of the Moonsiffs to be ordinarily instituted in their Courts.

Proviso.

24. All suits within the competency of a Moonsiff to decide under the foregoing provisions, shall ordinarily be instituted in the Moonsiffs' Courts. Provided nevertheless that it shall be competent to a Zillah or City Judge to receive such suits, and to try them himself, or to refer them for trial to any other Court subordinate to his authority, whenever he may see sufficient reason for so doing.—*Reg.* V. 1831, *Sect.* 7.

SECT. X.

Penalty for Corruption and Misconduct.

Moonsiffs may be sued for corruption in the civil courts, and are liable to discretionary costs and damages.

25. Moonsiffs shall be liable to an action in the Civil Court for corruption in the discharge of their trust, or for extortion, or for any oppressive or unwarranted act of authority; and upon proof of the charge to the satisfaction of the Judge he shall cause the offender to pay such damages

and costs to the party injured as may appear to be equitable.—*Reg.* XXIII. 1814, *Sect.* 10, *Cl.* 1.

Moonsiffs may be prosecuted criminally in certain cases, and are liable to a sentence of fine and imprisonment on conviction.

26. Moonsiffs shall also be liable to a criminal prosecution for corruption, extortion, or other misdemeanor committed by them in the discharge of any part of their duty, and on conviction before the Court of Circuit shall be subject to fine and imprisonment proportionate to the nature and circumstances of the case; but no Moonsiff shall be liable to be prosecuted for want of form or for error in his proceedings or judgments, nor shall any process be issued against a Moonsiff who may be charged with corruption, extortion, or any oppressive and unwarranted act of authority, unless the Judge shall be previously satisfied by sufficient evidence, that there is reason to believe the charge to be well founded.—*Reg.* XXIII. 1814, *Sect.* 10, *Cl.* 2.

Judges of Zillahs and Cities authorized to fine the Moonsiffs as far a 20 Rs.

27. In other cases of misconduct and neglect of duty which may not be of a nature to require either the suspension, or dismissal of a Moonsiff from his office, the Judge is authorized to impose on the Moonsiff a fine not exceeding twenty Rupees in amount, and the order of the Judge in such cases shall be final.—*Reg.* XXIII. 1814, *Sect.* 9, *Cl.* 3.

SECT. XI.

Dismissal and Suspension of Moonsiffs.

Rules regarding the dismissal of Sudder Ameens and Principal Sudder Ameens.

28. In modification of the existing rules regarding the removal of Sudder Ameens, it is hereby enacted that it shall not be necessary, in all cases, to require full and legal proof of disqualification, but that whenever a Zillah or City Judge shall have reason to believe that any Principal or other Sudder Ameen within his jurisdiction is disqualified by neglect of duty, incapacity, notorious corruption, or other gross misconduct, he shall state the grounds of his opinion to the Commissioner of Revenue and Circuit for the Division, and provided that Officer concur with him in opinion, they shall jointly submit a report thereof for the consideration and or-

ders of the Governor General in Council through the Secretary to Government in the Judicial Department; and it shall be competent to the Governor General in Council, should he be of opinion that sufficient grounds exist, to direct the immediate removal of such Principal or other Sudder Ameen; provided however, that no Principal or other Sudder Ameen shall be removed from office, without the sanction of the Governor General in Council.—*Reg.* V. 1831, *Sect.* 26, *Cl.* 1.

Rules regarding the dismissal of Moonsiffs.

29. The above rules are hereby declared applicable to the Moonsiffs, who may be appointed under this Regulation, (V. of 1831,) except that any report suggesting the removal of any Officer of that class, shall be made to the Sudder Dewanny Adawlut, who shall be competent to exercise the powers declared to belong to the Governor General in Council by the preceding Clause, with respect to the Sudder Ameens and Principal Sudder Ameens.—*Reg.* V. 1831, *Sect.* 26, *Cl.* 2.

The Judge competent to suspend a Principal Sudder Ameen, or Moonsiff, against the opinion of the Commissioner of the Division.

30. Provided also that it shall be competent to a Judge of a Zillah or City Court, whenever he may see urgent necessity for so doing, to suspend any Principal Sudder Ameen, Sudder Ameen, or Moonsiff, within his jurisdiction, without any previous communication with the Commissioner of the Division; and in all cases in which the Commissioner of the Division may dissent from the Judge as to the propriety of removing any of the Officers above named, it shall be competent to the Judge to submit his own opinion to that effect to the Governor General in Council or the Court of Sudder Dewanny Adawlut, as the case may be; such report, however, to be accompanied by a copy of the dissent which the Commissioner may deem it necessary to record on the occasion.—*Reg.* V. 1831, *Sect.* 26, *Cl.* 3.

The Commissioner of the Division competent to recommend the dismissal of a Principal Sudder Ameen,

31. Provided also that it shall be competent to any Commissioner of Revenue and Circuit to recommend on grounds assigned the removal of any Moonsiff, Sudder Ameen, or Principal Sudder Ameen; but every such recommendation

shall be previously submitted through the Judge of the Zillah or City, whose assent or dissent shall accompany the recommendation to the Court of Sudder Dewanny Adawlut, or the Governor General in Council, as the case may be.—*Reg.* V. 1831, *Sect.* 26, *Cl.* 4.

Sudder Ameens, or Moonsiff, contrary to the opinion of the Judge.

Sunnud and Oath.

Every person who may in future be appointed to the office of Moonsiff, will be furnished by the Judge with a Sunnud drawn up according to the form No. 1. of the Appendix to this Regulation; and previously to entering upon the duties of his office, he shall take and subscribe an oath according to the form prescribed in No. 2. of the Appendix. The Judge however is empowered in all cases in which he may deem it expedient, to exempt such Moonsiff from taking the oath, and to cause him to subscribe a solemn declaration to the same effect.—*Reg.* XXIII. 1814, *Sect.* 11.

Persons hereafter appointed to the office of Moonsiff to be furnished with a Sunnud, and to take and subscribe an oath or solemn declaration according to a prescribed form.

Form of Sunnud to be granted to Persons appointed to the Office of Moonsiff.

I, A. B. Judge of the Zillah or City of in virtue of the powers vested in me by Regulation XXIII. 1814, do hereby appoint you C. D. to the office of Moonsiff of with the same local jurisdiction as that of the police jurisdiction of you are to hold your Cutcherry at and are to affix this Sunnud, or a copy of it, duly authenticated, in some conspicuous place in the Cutcherry. Under the rules now in force, you will receive the remuneration to which you may be entitled for the trial and decision of suits from the Zillah or City Court; and you are not entitled to receive any institution or other fee, any deposit or sum of money, or valuable consideration from any parties, or other persons, on account of the institution or trial, the proceedings, process, or decision of any suit before you. You are not empowered to take or demand any security, to levy any fine, or to execute any decree, without the previous sanction and orders of the Zillah or City Court in each instance. You are to hear and determine all suits cognizable by you, and to execute all other duties entrusted to you in your capacity of Moonsiff, in strict conformity with the rules prescribed in the Regulations now

in force, or which may hereafter be enacted.—*App. to Reg.* XXIII. 1814. *No.* 1.*

Form of Oath to be administered to Persons appointed to the Office of Moonsif.

I, A. B. appointed to the office of Moonsiff of do solemnly swear,† that in the trial and determination of all suits, which may come under my cognizance, and in the execution of all the duties of my office, I will act according to the best of my abilities and judgment, without partiality, favour or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive any money, effects or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute. I will strictly adhere to all the rules prescribed for my guidance, and I will in all respects, truly and faithfully execute the trust reposed in me."—*App. to Reg.* XXIII. 1814. *No.* 2.

Copy of the Sunnud to be furnished to Moonsiffs, and to be affixed in their cutcherries.

32. Whenever a Sunnud may be granted to a Moonsiff under the preceding Section, a copy of it under the official seal and signature of the Judge, shall also be delivered to him, in order that it may remain permanently affixed in some conspicuous place in his cutcherry.—*Reg.* XXIII. 1814, *Sect.* 12.

SECT. XII.

Pleaders in Moonsiffs' Courts.

What persons may act as vakeels in the Courts of the Moonsiffs.

33. No person shall be allowed to plead or act as a Vakeel in the Court of any Moonsiff unless he be a relative, servant, or dependant of the person, for whom he may be appointed to act; or unless he shall have received a Sunnud of appointment from the Zillah or City Judge.—*Reg.* XXIII. 1814, *Sect.* 15, *Cl.* 1.

---

* This form of Sunnud requires to be amended according to the provisions of Reg. V. 1831.

† Regulation XVIII. Section 2, Clause 2, directs that the word "declare" shall be substituted for the word "swear" in the oath, and that the declarer shall not be sworn thereto.

34. If in any instance it appear to be essentially necessary that Vakeels be appointed to attend the pleading of causes before any of the Moonsiffs, the Zillah and City Judges are authorized to appoint a sufficient number of persons of good character and duly qualified, and to grant to them Sunnuds drawn up according to the form No 3. in the Appendix to this Regulation. The Zillah and City Judges are enjoined not to exercise the discretion vested in them by this clause of appointing Vakeels to the Moonsiffs' Courts, unless they shall be satisfied of the expediency or necessity of that measure.—*Reg.* XXIII. 1814, *Sect.* 15, *Cl.* 2.

Zillah and City Judges may appoint vakeels in the Courts of the Moonsiffs.

Such vakeels to receive Sunnuds in a prescribed form.

Form of Sunnud to be granted to persons who may be appointed to officiate as Vakeels in the Cutcherries of the Moonsiffs.

"I, A. B. Judge of the Zillah or City of do hereby appoint you C. D. to act in the capacity of Vakeel in the Cutcherry of the Moonsiff of . You will not be liable to be removed from your office, unless the Judge of the District or City of in consequence of misconduct on your part, or of there being no longer any necessity for your being employed in the capacity of Vakeel, shall deem it proper to recall and cancel this Sunnud."

35. The Vakeels so appointed shall be sworn to a faithful discharge of their duties, and shall be liable both to a civil action, and a criminal prosecution, for all breaches of trust, fraud, or acts of wilful misconduct, committed by them in their capacity of Vakeels. They shall not however be removed from their offices without proof to the satisfaction of the Judge, of misconduct, or of incapacity, or of gross profligacy, or misbehaviour, or unless the Judge shall consider it inexpedient to continue the number of Vakeels appointed; in which case he is at all times authorized to recall and cancel the Sunnuds granted to them.—*Reg.* XXIII. 1814, *Sect.* 15, *Cl.* 3.

And to be sworn to the faithful discharge of their duty.

And shall be liable in certain cases to a civil action and criminal prosecution.

36. The Vakeels who may be appointed under this Section are left to settle with their constituents the fees to be paid to them for the pleading of causes, and for all other acts that may be performed by them. The amount of the fees

Vakeels are to settle with their constituents the amount of the fees to be received by them.

Such fees to be specified in the vakalutnamah.

which may be voluntarily agreed upon, shall be specified in the vakalutnamah, which shall be written on the prescribed stamp paper, and the Moonsiff may include the same (or any part thereof which may appear reasonable) in his judgment against the party cast.—*Reg.* XXIII. 1814, *Sect.* 15, *Cl.* 4.

Moonsiffs are to prevent unauthorized persons from acting as vakeels in their cutcherries.

37. The Moonsiffs are carefully to prevent persons from acting as Vakeels in their respective cutcherries, who may not be relatives, servants, or dependants of the parties in causes before them; or may not have received Sunnuds to act as Vakeels from the Judge of the Zillah or City in which they may be employed.—*Reg.* XXIII. 1814, *Sect.* 15, *Cl.* 5.

SECT. XIII.

Stamp Duties.

Provisions of existing regulations rescinded.

38. Section 16, Regulation XXIII. 1814, and Clauses Third and Fourth, Section 3, Regulation II. 1821, are rescinded.—*Reg.* V. 1831, *Sect.* 8, *Cl.* 1.

Value of stamp paper on which the plaints shall be written.

39. In suits instituted before the Moonsiffs under the foregoing rules, the plaint shall be written upon stamp paper, agreeable to the rates specified in the Schedule B, referred to in Section 17, Regulation X. of 1829.—*Reg.* V. 1831, *Sect.* 8, *Cl.* 2.

Modifications of rules regarding Stamp Duties chargeable on law papers in the Courts of Moonsiffs.

40. In order to equalize the stamp duties chargeable on law papers in the Courts of the Moonsiffs, the rules and exemptions specified in Nos. 2, 4, 5, and 9, in Schedule B, referred to in Section 17, Regulation X. of 1829, are hereby modified as follows:—*Reg.* V. 1831, *Sect.* 9, *Cl.* 1.

Stamp paper not requisite for certain documents.

41. In all suits tried in the Courts of the Moonsiffs, the pleadings, the applications of parties for the filing of exhibits, as well as for the attendance of witnesses, and the copies of decrees, need not be written on stamp paper.—*Reg.* V. 1814, *Sect.* 9, *Cl.* 2.

[All the Schedules of the Stamp Regulation X. of 1829, as they apply equally to the Courts of Moonsiffs, Sudder Ameens and Principal Ameens, are given in the Appendix.]

SECT. XIV.

Filing of the Plaint.

What matters are required to be stated in the plaint.

42. The plaint shall state precisely the grounds of complaint, the time when the cause of action arose, the name and residence of the person or persons complained against, the total sum of money or amount of personal property claimed, and all material circumstances, which may elucidate the transaction, and may tend to bring the matter in dispute to a distinct issue.—*Reg.* XXIII. 1814, *Sect.* 17.

The insertion of irrelevant matter and terms of abuse in the plaint to be restrained and discouraged.

Plaint to be signed, numbered, and dated, and to be inserted according to a prescribed form in a book to be kept for that purpose.

43. It shall be the duty of the Moonsiff to restrain and discourage as much as possible the insertion in the plaint of irrelevant matter and of terms of abuse and reproach against the character of the defendants or others · The plaint shall be signed and numbered, and dated in the order in which it may be received by the Moonsiff, and the number of the suit, the names of the parties, the date on which the petition is received, the amount claimed, and the subject matter of the suit, shall be carefully entered in a book, to be kept by the Moonsiff according to the form No. 4, of the Appendix; two blank columns shall be left in the book, in the first of which shall be inserted the date of the decision and an abstract of the final order passed in each suit, shewing whether the claim be decreed in whole or in part, or nonsuited, or adjusted by razeenama or dismissed on investigation of the merits, or otherwise disposed of, and the amount of the costs adjudged against either or both of the parties. In the second blank column shall be inserted the date on which the copies of the decrees may be furnished or tendered to the parties. With a view to ascertain that the register books are regularly kept in the manner above prescribed, and that depending suits are brought to a hearing according to their order on the file, the Zillah and City Judge are respectively required to inspect them once at least in each year, and for this purpose shall require the several Moonsiffs to transmit them to the Court either during the period of the Dussera or Mohurrem vacation as may be most convenient.—*Reg.* XXIII. 1814, *Sect.* 18.

Form of a Register Book of Suits (instituted before Moonsiffs) (or referred to Sudder Ameens)

Number of the Suit	*Date of its institution (or reference.)*	*Names of the Parties*	*Amount and subject of the Claim.*	*Date and abstract of the final Order.*	*Date on which Copies of the Decree were furnished or tendered to the Parties.*
No 1.	2d. of February 1815	Ramchund Paul, *vs.* Panchoo Gope.	Debt on Bond, 37 Rs.	20th of March 1815, Decreed in favour of the Plaintiff 33 Rs. original and 2Rs. interest Defendant to pay costs 4 Rs 6 As Total 39 Rs. 6 As.	24th of March 1815 One Copy furnished to the Plaintiff himself, and another to the Vakeel of the Defendant.
No. 2.	2d. of February.	Khodabuksh, *vs.* Meerun.	Debt of 7 Rs for value of Rice furnished to Defendant.	Adjusted by Razenameh 10th of February.	
No 3.	3d. of February.	Poorun Singh, *vs* Mohun Chassa.	Arrears of rent 14 Rupees.	April 1st. Decreed for 7 Rs parties to pay their own Costs	April 7th. Plaintiff absent Copy of the Decree furnished to the Defendant.

SECT. XV.

Notice and Proclamation.

What notice to be served on the defendant.

44. When the complaint shall have been thus received and entered in the book according to the prescribed form, the Moonsiff shall cause to be served on the defendant a written notice under his seal and signature, containing only the number of the suit, the names of the parties, and a short statement of the demand, and requiring the defendant to attend in person or by vakeel, and to deliver an answer to the plaint on or before a certain day which must be specified in the notice.—*Reg.* XXIII. 1814, *Sect.* 19, *Cl.* 1.

To whom the notice is to be delivered.

45. The Moonsiff shall deliver the notice to the plaintiff or to his vakeel, and the plaintiff may either himself serve the notice on the defendant, or through any other person whom he may choose to employ for that purpose.—Provided, how-

ever, that the name of the person intended to be employed in this duty be in all cases endorsed on the notice by the Moonsiff previously to its being delivered to the plaintiff or his vakeel for execution.—*Reg.* XXIII. 1814, *Sect.* 19, *Cl.* 2.

And how it is to be served.

46. The person through whom this notice may be served, shall require from the defendant a written acknowledgement, to be endorsed on the back of the notice, signifying that it has been duly served upon him, and he shall further cause some of the defendant's neighbours, or any mundul or putwaree or other principal inhabitant of the village, or the mohulladar of the ward, to witness the due execution of the service, and he shall at all times state in his report, the name or names of such witness or witnesses.—*Reg.* XXIII. 1814, *Sect.* 19, *Cl.* 3.

Notice how to be served on weavers and other persons employed in certain departments on account of Government.

47 When the defendant may be a weaver or a person employed in the provision of the Company's investment under the Commercial residents, or in the provision of salt or opium in those departments, the notice above prescribed shall be enclosed within a sealed cover addressed to the resident or agent, or to the assistant, or to the gomastah, ameen, or head officer of the nearest aurung, kothee, or choukee, subordinate to them, and shall be superscribed with the official seal and signature of the Moonsiff. The resident, or agent, or his assistant, or head native officer, shall cause the notice to be duly served and acknowledged by the defendant, and shall then return it to the Moonsiff.—*Reg.* XXIII. 1814, *Sect.* 20.

Forms to be observed in suits instituted against officers, or persons employed in the Salt manufacture.

48. Persons instituting suits in the Dewanny Adawlut against any of the officers of the Agents, or any individuals under engagements on account of the Salt Manufacture, and employed therein, are to specify their being so engaged and employed. If the notice or summons is to be served during the months of Sawun, Bhadoor, and Assin, it shall be served on the defendant, in the same manner, as on other defendants not employed in the Salt Manufacture. If the notice or summons is to be served between the commencement of Kautic, and the end of Assar, the notice or summons with a

copy of the complaint shall be enclosed in a sealed cover, addressed to the Agent, and superscribed with the official signature of the Judge or Register. It shall be at the option of the Agent to execute, or to cause one of his officers or any other person, whom he may think proper, to execute the security required from defendants, in cases in which such security may be considered necessary, or to leave the party to find the required security; and in the latter case, and in the event of the summons being committed to an officer of the court, if the officer shall entertain doubts of the responsibility of the surety so offered, and the Agent shall declare such surety to be responsible, the officer shall accept the security. If a requisition of security for appearance should be made, and the Agent should not deem it expedient to order any of his officers or any other person to become security, and the defendant himself should not be able to find such security, as the Agent may deem responsible, the Agent is to cause the party summoned to accompany the officer of the court to the court, or if the summons shall not have been committed to the charge of an officer, he shall cause him to be conveyed before the court.—*Reg.* X. 1819, *Sect.* 21, *Cl.* 1.

The absence of the defendant or his refusal to acknowledge the, service how to be certified.

49. In cases in which a defendant to whom a notice may have been issued in conformity with the preceding Sections, may abscond or conceal himself, or cannot after diligent search be found, or shall refuse to give the required written acknowledgement, the person entrusted with the execution of the process, shall certify the same on the back of the notice, and shall require some person or persons being neighbours of the defendant, or a mundul, or a putwaree, or other principal inhabitant of the village, or a mohulladar of the ward in which the defendant may usually reside, to certify on the back of the process, that after diligent search the defendant cannot be found, or that he has refused to give the required written acknowledgement.—*Reg.* XXIII. 1814, *Sect.* 22, *Cl.* 1.

Proclamation to be issued after it shall have been certified

50. When a return to this effect is made, the Moonsiff shall cause a proclamation written in the current language and

character of the country, to be affixed in a conspicuous part of his own cutcherry, and a copy of the same on the outer door of the defendant's usual place of residence, or some other conspicuous place near it. The proclamation shall contain a copy of the original notice, and shall state that if the defendant do not appear in person, or by a vakeel, within the period of fifteen days from the date of the proclamation, the suit will be brought to a hearing and determination without the appearance or answer of the defendant. —*Reg.* XXIII. 1814, *Sect.* 22, *Cl.* 2.

that the defendant cannot be found or has refused to acknowledge the service.

What the proclamation shall contain.

SECT. XVI.

Trials exparte.

51. If a defendant who may have been served with a notice as directed in the two preceding Sections shall not appear in person or by vakeel, within the time specified, or if having appeared, he shall refuse to answer the plaint, the Moonsiff shall proceed to try the cause exparte, and after examining the plaintiff's evidence in support of his claim, shall give judgment in the same manner as if the defendant had appeared and answered to the plaint.—*Reg.* XXIII. 1814, *Sect.* 21. *Cl.* 1.

Under certain circumstances the cause may be tried exparte.

52. It shall however be the duty of the Moonsiff previously to trying the case exparte, to make such enquiries from the person who served the process, and from the persons who witnessed such service, as may satisfy his mind, that the notice was duly served on the defendant.—*Reg.* XXIII. 1814, *Sect.* 21, *Cl.* 2.

But Moonsiffs required to ascertain that the notice was duly served on the defendant.

53. If the defendant shall still not appear either in person or by vakeel, the Moonsiff, on the expiration of the period limited in the proclamation, shall proceed to try and determine the suit exparte, with the same precautions, and in the same manner, as is prescribed in Clause Second, Section 21, of this Regulation.—*Reg.* XXIII. 1814, *Sect.* 22, *Cl.* 3.

If the defendant shall fail to attend within the period limited in the proclamation, the suit is to be tried exparte.

SECT. XVII.

Securities.

Moonsiffs prohibited from requiring security from the defendants.

Moonsiff to report to the Judge if the defendant means to abscond or to dispose of his property.

54. In suits depending before them, the Moonsiffs are hereby strictly prohibited from requiring security (either mal or hazir zaminee) from the defendants, or from attaching their property. But if the Moonsiff shall be satisfied by sufficient proof, that the defendant intends to abscond and to withdraw himself from the jurisdiction of the court, or that he means to dispose of the property in his possession for the purpose of avoiding the execution of an eventual judgment against him, the Moonsiff shall report the circumstances of the case to the Judge, who will exercise his discretion in each instance, and pass such orders as may appear necessary, under the provisions contained in Sections 4 and 5, Regulation II. 1806. (1) The Judge may cause those orders to be executed either by the Moonsiffs, or by the proper officers of his own court, as may appear most convenient.—*Reg.* XXIII. 1814, *Sect.* 23.

(1) *Provisions regarding securities contained in Sect.* 4 *and* 5, *Reg.* II. 1806.

Defendant after receiving the notice and attending in person or by vakeel, to be allowed to defend the suit to its termination without being called upon for security, unless it appear to the court requisite.

How the court is to proceed if it appear on sufficient evidence that the defendant intends to abscond.

If a defendant, after receiving the notice prescribed in Section 2, shall attend in person or by vakeel, and deliver his answer to the plaint, and no reason shall subsequently appear to the court for requiring security for his appearance, during the trial of the suit; he shall be allowed to defend the cause, to its determination, without being called upon for such security. But if the Judge (or Register) shall be satisfied, by sufficient proof, that there is reason to believe the defendant intends to abscond, and withdraw himself from the jurisdiction of the court, he may either on the institution of the suit, or at any time whilst the suit is depending in the Zillah or City court, issue process against the defendant requiring him to give security for his appearance, as prescribed on the issue of summonses, (2) by Section 5, Regulation IV. 1793, and Section 5, Regulation III. 1803, under penalty of being committed to close custody until such security be given, or the decree of the court be complied with; as provided in the above-mentioned Sections, or until an attachment of property shall have taken place,

Process to be issued in such cases requiring security under specific penalties.

to secure the execution of the ultimate judgment in the cause, under the provision made by the following Section of this Regulation. The security bond, (3) to be executed in such instances, shall in substance correspond with that prescribed by Section 3, Regulation XI. 1797, and Section 29, Regulation III. 1803; and in fixing the extent of the security to be required, the Judge (or Register) is authorized to exercise the discretion (4) vested in him by Section 2, Regulation III. 1802; and Section 8, Regulation XIV. 1803. —*Reg.* II. 1806, *Sect.* 4.

Security bond to correspond with that prescribed in the regulations hereby quoted; and in fixing the extent of the security the Judge or Register is authorized to exercise the discretion allowed under the regulations herein specified.

(2) *Rules prescribed for the issue of summonses.*

Court how to proceed upon a complaint cognizable by it being preferred to it. To issue a summons. Contents of the summons

The court is to issue a summons to the defendant, which is to contain a short account of the nature of the demand, and to require the defendant either to accompany the officer who may be deputed to serve the summons, to appear in person before the court, or to deliver to him good and sufficient security to appear and answer to the complaint on the day appointed, either in person or by vakeel. The person who may become a security for the appearance of the defendant, is further to bind himself to be responsible for the personal attendance of the defendant whenever it may be required by the court, and in the event of his not being able to produce him, either whilst the suit is depending, or at any time before the final decree in the cause is executed, to be answerable for such sum as may be adjudged against the defendant. The summons is to be served on the defendant by the *nazir* or his inferior officer if he can be found, and in the event of his not giving the required security, the *nazir* or officer is to take his person into custody, and bring him before the court. The *nazir* is to return the summons on the day appointed, with an endorsement specifying in what manner he has executed it.—*Extract from Reg.* IV. 1793, *Sect.* 5.

Nazir to return the summons on the fixed day, with an endorsement how it has been executed.

(3) *Form of security bond.*

Whereas a suit has been instituted in the Dewanny Adawlut of the Zillah (or City) of by plaintiff against defendant; and whereas I , inhabitant of have voluntarily become security for the appearance of the said defendant to answer to the above

suit, and perform all such orders as may be passed thereupon, until the final decree on it shall have been carried into execution; I do therefore hereby engage and bind myself, my heirs and successors, that the said defendant shall appear in person, or by vakeel, to make answer to the plaint against him in the suit aforesaid on the , being the day on which his appearance has been required in the said Zillah (or City) Court; and further that the said defendant shall personally attend at the said Zillah (or City) Court whenever the same may be required by the Judge thereof, at any time whilst the above suit is depending before the Zillah Court, or provincial Court of Appeal, or Court of Sudder Dewanny Adawlut; or before the final decree which may be passed thereupon, by the above Courts respectively, shall be fully and completely carried into execution, in default of which and in the event of my not producing the said defendant when called upon, I will be answerable for such sum as may be adjudged against him; and for the performance of whatever order or decree may be passed against him on the suit above-mentioned.—*Extract from Reg.* XI. 1797, *Sect.* 3.

(4) *Discretion vested in the Judge by Reg.* III. 1802, *Sect.* 2.

The Zillah and City Judges authorized to exercise their discretion with respect to security for the appearance of defendants in the first instance, and

In all cases of suits preferred in the Zillah or City Courts whether by paupers or by others, the Judge before whom the suit may be instituted, is authorized to fix the extent of the security to be required for the appearance of the defendant in conformity to Section 5, Regulation IV. 1793, (extended to Benares by Regulation VIII. 1795,) and for which a form of bond is prescribed in Section 3, Regulation XI. 1797, viz. the Judge shall exercise his discretion with respect to the responsibility of the surety or sureties to be found by the defendant for his personal attendance when required, as specified in the above regulation; and in the first instance whatever may be the claim of the plaintiff, shall demand from the defendant such security only as may appear necessary to secure his appearance during the trial of the suit. Provided, that if at any time in the course of the trial the security so taken from the defendant shall appear to the Judge insufficient, he is authorized and required to take such further security as he may think necessary

May require further security, if in the course of the trial the security so taken shall appear insufficient.

to secure the appearance of the defendant.—*Extract from Reg.* III. 1802, *Sect.* 2.

Malzaminy security to be required in cases wherein it may appear to the Judge or Register on sufficient proof that the defendant means to dispose of the property or land in dispute, by private transfer or public sale; or in any of the modes herein specified.

55. In any case if the Judge (or the Register in causes referred to him) be satisfied by sufficient proof, that there is ground to apprehend the defendant means to dispose of the property in his possession by any private transfer; or to cause the public sale of any disputed land by withholding the assessment upon it; or to remove any personal property from the jurisdiction of the court, whilst the suit against him is depending; for the purpose of avoiding the execution of an eventual judgment against him, the Judge (or Register) is authorized to call upon the defendant for malzaminy security in such sum as may appear sufficient to make good the ultimate judgment of the court; and in the event of such security not being given (within a reasonable time to be allowed for that purpose) to cause the attachment of any land, effects, or other property belonging to, or possessed by the defendant, to the amount or value of the cause of action in the suit depending; or the attachment of which may be deemed necessary to secure the execution of the judgment to be passed in the cause.—*Reg.* II. 1806, *Sect.* 5, *Cl.* 1.

If the security be not furnished within a responsible time, any land, property or effects in the possession of the defendant, to the amount or value of the cause of action, to be attached.

SECT. XVIII.

Pleadings.

Defendant to file an answer to the plaint if he shall appear at any time before the plaintiff's evidence shall have been received.

56. When the defendant shall attend either in person or by vakeel, within the period limited in the notice or proclamation, or at any subsequent period, before the plaintiff's evidence or proofs shall have been received in the case, he shall be allowed to take a copy of the plaintiff's petition, and to file his answer to the complaint.—*Reg.* XXIII. 1814, *Sect.* 24.

Moonsiffs to prevent the insertion in the answer of irrelevant matter and abusive terms.

57. It shall be the duty of the Moonsiffs to restrain and discourage as much as possible, the insertion in the answer of any matter evidently irrelevant to the suit, and of terms of abuse and reproach against the character of the parties or other persons.—*Reg.* XXIII. 1814, *Sect.* 25, *Cl.* 1.

In what cases the plaintiff may be permitted to file a reply.

58. If the answer of the defendant shall be a simple admission or denial of the matter contained in the plaint, no further pleading shall be necessary in suits before the Moonsiffs, but if the answer shall contain any plea or allegation, which may require a reply on the part of the plaintiff, in order to bring the matter in dispute to a distinct issue, or to which the plaintiff may be desirous of replying, such reply shall be filed on the next court day after that on which the defendant may have given in his answer. The plaintiff shall not introduce in his reply any matter not contained in his complaint. He shall either acknowledge the answer of the defendant to be true, or simply and shortly deny the truth of such of the facts in the answer, as he intends to dispute, or simply deny the truth of the facts contained in it, or the competency of the answer.—*Reg.* XXIII. 1814, *Sect.* 25, *Cl.* 2.

When the rejoinder is to be filed, and what it is to contain.

59. The defendant shall rejoin to the reply on the same day. He shall not introduce in his rejoinder any matter not contained in his answer. He shall simply deny the truth of the reply of the plaintiff, or of those parts of it which he means to dispute, or aver the truth or competency of his own answer, and no further pleadings whatever shall be admitted in suits before the Moonsiffs.—*Reg.* XXIII. 1814, *Sect.* 25, *Cl.* 3.

The answer, reply, and rejoinder not to be on stampt paper.

60. The answer, reply, and rejoinder, in suits tried by the Moonsiffs, are not required to be written on stampt paper. —*Reg.* XXIII. 1814, *Sect.* 25, *Cl.* 4.

On the occurrence of any unauthorized delay in filing the reply or rejoinder, the trial of the suit not to be postponed on that account.

61. In suits in which the plaintiff may delay to file his reply, or the defendant to file his rejoinder, within the fixed periods, the Moonsiffs are not required to postpone the trial of the suit on that account, but may proceed in it in the same manner, as if the reply or the rejoinder had been actually filed.—*Reg.* XXIII. 1814, *Sect.* 25, *Cl.* 5.

SECT. XIX.

General Rules for the Trial of Suits.

Suits to be tried by the Moonsiffs

62. Moonsiffs are themselves to investigate the suits cog-

themselves in a public cutcherry, and under what rules.

nizable by them in a public cutcherry, or court room, and are not to allow their officers, servants, or dependants, or any other person to interfere therein. In receiving, trying and determining suits, they shall be guided by the rules prescribed in the following Sections, and in points not expressly provided for in this regulation, they shall observe as nearly as may be practicable the rules prescribed in the regulations for the guidance of Zillah and City Courts in the trial and decision of civil suits.—*Reg.* XXIII. 1814, *Sect.* 14.

Suits to be tried according to their order on the file.

Proviso.

63. The Moonsiffs shall try all suits depending before them, in the order in which they have been filed or numbered; provided however, that the Zillah or City Judge be at all times authorized, either upon a report from the Moonsiff, or upon other grounds of information, to direct the Moonsiff to bring any particular suit or suits to a hearing and determination without attending to the regular order of the file. —*Reg* XXIII. 1814, *Sect.* 26.

Notice to be affixed in the cutcherry, if either of the parties shall be absent when the suit is first called over for trial.

64. In cases in which the answer shall have been filed, and the parties or either of them shall fail to appear in person or by vakeel at the time when the suit is first called over for trial, the Moonsiff shall suspend the trial, and shall affix in some conspicuous place in his cutcherry, a notice that the suit will be again called over for trial after the expiration of a fixed period not being less than ten days. If the plaintiff shall not appear before the Moonsiff in person, or by a vakeel duly authorized within the limited time, the Moonsiff shall dismiss his claim; if the defendant shall not so appear by the prescribed time, the Moonsiff shall proceed to try the cause exparte.—*Reg.* XXIII. 1814, *Sect.* 27, *Cl.* 1.

Mode of proceeding if notwithstanding such notice either of the parties may fail to attend.

Proviso for cases which may be dismissed without an investigation of the merits.

65. Provided, however, that if the suit be dismissed without an investigation of the merits, and either of the parties shall appeal from the decision of the Moonsiff, it shall be the duty of the court trying the appeal to determine the case on its merits, or to remand it back to the Moonsiff, by whom it was dismissed, or to any other competent authority for a further investigation.—*Reg* XXIII. 1814, *Sect.* 27, *Cl.* 2.

Rules for the trial of suits depending before Moonsiffs.

66. The Moonsiffs are to try the suits depending before them by hearing the pleadings of the parties, by examining their documents, and by taking the depositions of their witnesses in the presence of the parties, or of their vakeel duly constituted. They may also examine the truth of the claim by the oaths of the parties, if they mutually consent to that mode of examination.—*Reg.* XXIII. 1814, *Sect.* 28.

Suits depending before Moonsiffs may be tried by the Judge, or referred for trial to other tribunals.

67. The Zillah and City Judges may for any reason that may appear to them sufficient, bring up for trial before them, or their Registers, or the Sudder Aumeens, any causes that may be depending before the Moonsiffs, or may transfer such causes from one Moonsiff to another.—*Reg.* XXIII. 1814, *Sect.* 47, *Cl.* 1.

SECT. XX.

Rules regarding Witnesses.

Moonsiffs authorized to summon witnesses who may not attend on the requisition of the parties.

68. If the plaintiff or defendant shall be desirous of summoning any witnesses to appear before the Moonsiff, and such witnesses shall not attend at the requisition of the parties, the Moonsiff is authorized to summon as witnesses, any persons subject to his jurisdiction, excepting women whose rank may be such as to render it improper to require their appearance in public. When the evidence of such women is necessary, it is to be taken in the mode (1) prescribed by Section 6, Regulation IV. 1793; Section 2, Regulation VIII. 1795, and Section 7, Regulation III. 1803.—*Reg.* XXIII. 1814, *Sect.* 29, *Cl.* 1.

(1) *Mode in which the evidence of women of rank is to be taken.*

In the event of any witness being a Hindoo or a Mahomedan woman of a rank or quality, which, according to the customs and manners of the country, would render it improper to compel her to appear in a court of justice, the Zillah and City Courts of Dewanny Adawlut are authorized to commission three credible women, who are to be sworn to execute the commission truly and faithfully, to administer either an oath, or the prescribed declaration to persons of the rank, caste, or quality before-mentioned, (according to the discretion of the Judge and the religion of the witnesses,)

and to examine them on written interrogatories to be delivered to them by both parties or their vakeels, if both parties shall desire to examine the witnesses.—*Extract from Reg.* IV. 1793, *Sect.* 6.

[This rule was extended to Benares, &c. by Regulation VIII. 1795, Section 2; and to the Ceded and Conquered Provinces by Regulation III. 1803, Section 8.]

What the summons shall contain.

69. The summons shall specify the number of the suit on the file, the name of the party at whose request it may be issued, and the names and residence of the witnesses, and shall require them to appear at the cutcherry of the Moonsiff on a specific day; and there to depose concerning the matter in dispute between the parties.—*Reg.* XXIII. 1814, *Sect.* 29, *Cl.* 2.

Summons need not be written on stampt paper, and not liable to any fee.

70. The application of parties for attendance of witnesses before a Moonsiff need not be written on stampt paper, nor shall any fee be demanded or received by the Moonsiff for issuing the prescribed summons.—*Reg.* XXIII. 1814, *Sect.* 29, *Cl.* 3.

Mode in which the summons shall be served.

71. The Moonsiff shall deliver the summons to the party applying for it, or to his authorized vakeel, and such party or vakeel may either serve the summons himself or through any other person whom he may choose to employ for that purpose; provided however that the name of the person intended to be employed in this duty be in all cases notified to the Moonsiff, and endorsed on the summons previously to its being delivered to the party or his vakeel for execution.—*Reg.* XXIII. 1814, *Sect.* 29, *Cl.* 4.

Proviso.

Mode of summoning weavers and certain other persons employed on the part of Government, whose evidence may be required before Moonsiffs.

72. If any individual whose evidence is required shall be a person employed in the provision of the Company's investment under the commercial residents, or in the provision of salt and opium under the agents of Government, the summons shall be served in the same manner as is prescribed in Section 20 of this Regulation, respecting the issue of notice to a defendant. The Moonsiffs will be careful not to summon such persons unnecessarily, and on their atten-

dance, shall cause them to be examined and dismissed with all practicable dispatch.—*Reg.* XXIII. 1814, *Sect.* 30.

Notices to witnesses how to be issued, when such witnesses are employed in the Salt Manufacture.

73. Notices to officers or other persons employed in the Salt Manufacture to appear as witnesses, shall be served during the manufacturing season in the same manner as if they were parties in the cause, but the Judges are to be careful not to issue notices to such officers, or persons, excepting when their attendance shall be necessary; and on their appearance, to have them examined and dismissed with all practicable dispatch, so that they may be absent from the business of the manufacture as short a time as possible.—*Reg.* X. 1819, *Sect.* 21, *Cl.* 8.

The property of witnesses who may not attend after being duly summoned, to be attached.

Moonsiffs how to proceed if after such attachment witnesses shall not attend within a reasonable term.

74. If any person upon whom a summons may have been duly served in the manner above prescribed, shall not attend on the day appointed, the Moonsiff is authorized to attach any property belonging to such person which may be found within his own jurisdiction. If after reasonable time subsequent to such attachment, the person summoned shall still omit or refuse to attend, and it shall satisfactorily appear by the oath of the party requiring his evidence, that the testimony of such person is material to the cause, the Moonsiff shall report the circumstances of the case to the Judge, who will exercise his discretion in issuing such further process in order to compel the appearance of the witness before the Moonsiff as might be issued under the Regulations if the suit were depending before the Judge.—*Reg.* XXIII. 1814, *Sect.* 31, *Cl.* 1.

Further process to be used by the Judge.

If such further process be insufficient to secure the attendance of the witness, such witness to be fined by the Judge.

Fine how to be realized.

75. If notwithstanding this further process, the attendance of the witness cannot be obtained, the Judge shall at his discretion impose on such witness a fine not exceeding in any case the value or amount of the property in dispute; such fine shall be realized under the general provisions in force for the execution of decrees.—*Reg.* XXIII. 1814, *Sect.* 31, *Cl.* 2.

Refusing witnesses to be fined by the Moonsiffs

76. In cases in which a witness duly summoned may attend before the Moonsiff, but shall refuse to give his evidence, or

to subscribe his deposition, the Moonsiff shall impose such fine upon him as may appear proper. The Moonsiff is however strictly prohibited from realizing such fine by his own authority; he shall report the circumstances of the case to the Judge, who will either remit or modify, or confirm the fine imposed by the Moonsiff, and will proceed to realize it in the same manner as is prescribed in the preceding Clause.—*Reg.* XXIII. 1814, *Sect.* 31, *Cl.* 3.

and the circumstances reported to the Judge.

How the Judge is to proceed on receiving such report.

77. If any Moonsiff shall require the evidence of a person not subject to his jurisdiction, and such person shall not attend at the requisition of the parties, the Moonsiff shall make application to the Zillah or City Judge, who will issue the necessary process for procuring his attendance either through the proper officers of his own court, or through the Judge or the Moonsiff, within whose jurisdiction such person may reside.—*Reg.* XXIII. 1814, *Sect.* 32. *Cl.* 1.

Witnesses residing in other jurisdictions how to be summoned.

78. If however the residence of the witness shall be at a considerable distance from the Moonsiff's cutcherry, or if other circumstances should render it inconvenient or improper to compel the personal attendance of any witness, the Moonsiff is hereby authorized and required to transmit to the Judge any written interrogatories, which he may think necessary, or which may be suggested by the parties or their vakeels, in the suit. On the receipt of such written interrogatories, the Judge will proceed to obtain the evidence of the witness in the mode (1) prescribed by Section 6, Regulation IV. 1793, Section 2, Regulation VIII. 1795, and Section 7, Regulation III. 1803.—*Reg.* XXIII. 1814, *Sect* 32, *Cl* 2.

Cases in which the evidence of witnesses required by Moonsiffs may be taken on written interrogatories.

(1) *Mode of obtaining the evidence of witnesses residing at a distance.*

In like manner, if any witness whose deposition may be necessary to the determination of a cause, shall reside out of the jurisdiction of the Zillah or City Court in which the suit may be instituted, and at a greater distance from the Court than fifty coss, the Judge of the Zillah or City Court is authorized by a letter signed by himself, and sealed with the seal of the Court, to request the Judge of the Zillah or City Court in whose jurisdiction the witness may reside, either to administer to him an oath, or cause him to

Manner in which the Judge is empowered to obtain the evidence of witnesses residing out of the jurisdiction of the court, and at a greater distance from it, than fifty coss.

sign the above-mentioned declaration, should he be of the description of persons whom the Courts are empowered to exempt from taking an oath, (according to the discretion of the Judge who shall grant the commission, and the religion of the witness,) and to examine such witness on written interrogatories to be transmitted to the Judge by both parties or their vakeels, if both parties shall desire to examine the witness. The Judge to whom the letter may be directed, is to examine the witness or witnesses named in the letter, according to the requisition of it, and to return the deposition of each witness duly subscribed by him, to the Judge of the court in which the cause may be depending by the time required in the commission; and every deposition so taken, is to be read as good evidence in the cause. But if the personal attendance of a party in a suit, or a witness, (provided the party, or witness, be not a woman of a rank or quality, which, according to the customs and manners of the country, would render it improper to compel her to appear before a court of justice,) who may be resident at any distance whatever beyond the limits of the jurisdiction of the court, shall be deemed by the Judge trying the cause to be indispensably necessary, he is to address the Judge of the court in the jurisdiction of which the person whose attendance is required may reside, requesting him to order him to attend; and the Judge so addressed, is directed to comply with the requisition, without further delay than may be necessary in the event of the attendance of such person before the court of the Judge to whom the application may be made being indispensable, in consequence of his being either a party or a witness in a suit depending before the Court.—*Extract from Reg.* IV. 1793, *Sect.* 6.

Personal attendance of parties or witnesses residing out of the jurisdiction of the court, and at a greater distance than fifty coss, how to be procured if necessary.

79. The Moonsiffs are hereby strictly prohibited from confining or otherwise punishing witnesses, and they are enjoined to take the depositions of witnesses attending before them, with all due expedition, so that they may not be exposed to any vexatious delay or unnecessary detention from their respective homes and employments.—*Reg.* XXIII. 1814, *Sect.* 33.

Witnesses not to be maltreated by Moonsiffs, or detained from their homes longer than may be necessary.

The evidence of witnesses to be taken on oath.

80. The Moonsiffs shall administer to witnesses such oaths as may be considered most binding on their consciences, according to their respective religious persuasions. But if the witness shall be of a rank, which according to the prejudices of the country, would render it improper to compel him to take an oath, the Moonsiff may dispense with his being sworn; and in lieu thereof, cause him to subscribe a solemn declaration (or hulfnamah) under the rules prescribed in Section 6, Regulation IV. 1793, (1) and Section 7, Regulation III. 1803, (2) or such other rules as may hereafter be prescribed.—*Reg.* XXIII. 1814, *Sect.* 34.

(1) *Declaration to be subscribed by a Hindoo Witness exempted from taking an Oath in the Provinces of Bengal, Behar and Orissa.*

Declaration to be signed by a Hindoo witness exempted from taking an oath.

"I will faithfully answer according to the truth, such questions as may be put to me by the Court in the cause now before the Court; I will not declare any thing not warranted by the truth; if I declare any thing not warranted by the truth, I shall be deserving of punishment from Eeshwur."—*Extract from Reg.* IV. 1793, *Sect.* 6.

(1) *Declaration to be subscribed by a Mahomedan Witness exempted from taking an Oath in the Provinces of Bengal, Behar and Orissa.*

Declaration to be signed by a Mahomedan witness exempted from taking an oath.

"I sincerely promise and swear in the presence of Almighty God, that I will faithfully and without partiality, answer according to the truth, any questions that may be put to me by the Court respecting the cause now before the Court." After the witness has given his deposition, he is to subscribe the following declaration. "I swear, in the presence of Almighty God, that I have faithfully and without partiality answered according to the truth the questions put to me by the Court respecting the cause now before the Court."—*Extract from Reg.* IV. 1793, *Sect.* 6.

(2) *Declaration to be subscribed by a Hindoo Witness exempted from taking an Oath in the Ceded and Conquered Provinces.*

Declaration to be signed by a Hindoo witness exempted from taking an oath.

"I will true and perfect answer make to all such questions as shall be put to me touching the matter now before the Court, betwixt the parties A. and B. which shall be the truth, the whole truth, and nothing but the truth: if I declare any thing not warranted by the truth, or conceal any part thereof, I shall be deserving of punishment from Almighty God; and if I break this declaration, I acknowledge

myself to be as guilty as if I had killed a Bramin, or slain a cow on the banks of the Ganges, at Causee."—*Reg.* III. 1803, *Sect.* 7.

(2) *Declaration to be signed by a Mahomedan Witness exempted from taking an Oath in the Ceded and Conquered Provinces.*

Declaration to be signed by a Mahomedan witness exempted from taking an oath.

"I solemnly affirm and declare, in the presence of Almighty God, that I will true and perfect answer make to all such questions as shall be put to me, touching the matter now before the Court, betwixt the parties A. and B. which shall be the truth, the whole truth, and nothing but the truth."—*Reg.* III. 1803, *Sect.* 7.

The oath or solemn declarations of witnesses may be dispensed with by consent of the parties.

81. The Moonsiffs are at all times authorized to cause the examination of a witness to be taken on a solemn declaration, or even without such solemn declaration, whenever the parties in the suit, or their respective vakeels, may voluntarily and mutually agree to such witness being so examined. —*Reg.* XXIII. 1814, *Sect.* 35.

Witnesses are not to be instructed or intimidated, and all leading and irrelevant questions are to be avoided.

82. In the examination of witnesses, the Moonsiffs are enjoined carefully to prevent the parties and their vakeels or agents from instructing or intimidating the witnesses, or from putting to them leading questions, or questions suggesting a particular answer; questions also with regard to the personal character of the parties, or on points evidently irrelevant to the matter in dispute, are to be avoided as much as possible.—*Reg.* XXIII. 1814, *Sect.* 36.

What is to be contained in the deposition of a witness and how it is to be attested.

83. The deposition of every witness shall commence by specifying the name, the father's name, (or, if the deponent be a married woman, the name of her husband,) the religion, cast, profession, age and place of residence of the deponent, and shall be subscribed by the witness with his or her name or mark.—*Reg.* XXIII. 1814, *Sect.* 37.

Recapitulation of Section 2, Regulation III. 1801, and additional provisions enacted for the more effectual attainment of the objects of that Regulation.

84. By Section 2. Regulation III. 1801, extended to the Upper Provinces by Section 3, Regulation VII. 1813, with a view to prevent unfounded and malicious charges of perjury, or subornation of perjury, it is provided that the Zillah and City magistrates shall not receive any charges of per-

jury, which may be preferred by parties in civil suits, either against their own witnesses or against the witnesses of the adverse party, or charges of subornation of perjury against the adverse parties in such suits, and all individuals whose attendance is required in the civil courts, either as plaintiffs, defendants or witnesses, are declared not liable to any prosecution of this description, unless committed to take their trial by the Zillah or City Judge, the following additional provisions are now enacted for the more effectual attainment of the object above stated.—*Reg.* XVII. 1817, *Sect.* 14, *Cl.* 1.

The rule in the Section and Regulation above cited, with a discretion to the Judge to commit to prison or admit to bail, declared to extend generally, to all allegations of perjury, or subornation of perjury, against parties or witnesses in any civil suit, or any civil proceeding whatever before any of the authorities herein mentioned.

85. The rule above-mentioned, (with this qualification that the Zillah or City Judge may commit to prison, or admit to bail, as he shall think proper, under the discretion given by Section 5, Regulation II. 1807,) shall be considered applicable to all allegations of perjury, or subornation of perjury, against parties or witnesses in any civil suit or any civil proceedings whatever, before the Judge or Register of a Zillah or City Court; or before a Sudder Ameen or Moonsiff, or an arbitrator or arbitrators appointed to investigate such suits; or an officer employed by a Zillah or City Civil Court, in any local or other enquiry; or in the execution of any civil process. In all such cases the proceedings, on which the charge of perjury, or subornation of perjury may be grounded, if not held before the Zillah or City Judge in the first instance, shall be referred to him by the Register, Commissioner, or other officer before whom the proceedings may have been held, with the sentiments of the Register, Commissioner, or other officer, upon the case; and if the Judge be of opinion that there are sufficient grounds for bringing the accused party to trial before the Court of Circuit, on a charge of perjury, or subornation of perjury, he shall record his opinion to that effect; and at the same time direct whether the accused shall be admitted to bail, or kept in custody. An authenticated copy of the order passed by him, with the whole of the original papers relative to the case, shall then be transferred to the cutcherry of the Magistrate, that the order of the Judge may be carried into effect, and the case brought before the Court of Circuit, in the same manner as if the charge had been instituted

Mode of procedure when the proceedings on which the charge of perjury or subornation of perjury is grounded, may be held before a Register, native Commissioner or other officer.

and proceeded upon, in the Court of the Magistrate.—*Reg.* XVII. 1817, *Sect.* 14, *Cl.* 2.

SECT. XXI.

Exhibits.

Exhibits in suits before Moonsiffs are not liable to the payment of fees or stamp duties.

But no exhibits to be admitted which are not written on the prescribed stampt paper.

86. No fees shall be levied on exhibits filed before the Moonsiffs, and exhibits shall be received in suits depending before them, without any derkhaust, or written application for that purpose. The Moonsiffs are strictly prohibited from admitting or filing as an exhibit, or from receiving in evidence, any obligation, instrument, bond, deed, or document, whether it be the original, or a copy, of a description which is or may be required to be written on stampt paper, unless it shall have been duly executed on stampt paper of the description, value, and denomination prescribed by the Regulations.—*Reg.* XXIII. 1814, *Sect.* 38, *Cl.* 1.

Moonsiffs to report to the Judge instances in which exhibits may appear to be written on stampt paper differing from the prescribed stampt paper.

87. In cases in which a Moonsiff shall entertain doubts whether a document presented to him as an exhibit has been duly executed on paper bearing the prescribed stamp, he shall transmit such document, with a statement of the case, to the Judge for his opinion, and shall be guided by the instructions he may in consequence receive from the Judge, either in rejecting, or admitting such exhibit.—*Reg.* XXIII. 1814, *Sect.* 38, *Cl.* 2.

Exhibits are to be dated, signed and marked, and are to be described according to that mark in the proceedings and decree.

88. When an exhibit is filed in a suit before the Moonsiff, it shall be dated and signed or sealed by him, and shall be marked with some letter or number to identify it, and such letter or number shall be distinctly referred to in those parts of the depositions of the witnesses, or of the proceedings, or of the decree, as may allude to such exhibit.—*Reg.* XXIII. 1814, *Sect.* 38, *Cl.* 3.

SECT. XXII.

Contempt of Court.

Moonsiffs may fine parties, vakeels or witnesses

89. If a Party, Vakeel, or Witness in any depending suit shall be guilty of disrespectful behaviour to the Moonsiff

in open Court, the Moonsiff is empowered to impose such fine on the Party, Vakeel, or Witness so offending, as may appear proper. The Moonsiff is however strictly prohibited from realizing such fine by his own authority. He shall report the circumstances of the case to the Judge, who will either remit, modify, or confirm the fine imposed by the Moonsiff, and in either of the latter cases, will proceed to levy it under the general provisions in force for the execution of decrees.—*Reg.* XXIII. 1814, *Sect.* 42.

for disrespect in open court, and shall report such fines to the Judge.

The Judge may remit or modify or confirm the fines, and may realize them by the process for the execution of decrees.

90. It is further hereby extended to the Courts of the Sudder Ameens and Moonsiffs with this restriction, that all fines for contempt, which may be imposed by a Moonsiff, or by a Sudder Ameen in his Civil Court, shall previous to the enforcement of them, be reported with a copy of the proceeding held in the case for the information and orders of the local Judge or Register in like manner as fines on witnesses refusing to give evidence, or to subscribe their depositions, in the Court of a Moonsiff, are required to the reported by the Rule contained in the third clause of Section 31, Regulation XXXIII. 1824.—*Reg.* XII. 1825, *Sect.* 6, *Cl.* 2.

Extended to the Civil Courts of the Sudder Ameens and Moonsiffs with certain restrictions.

SECT. XXIII.

Decision of Suit and Copy of Decrees.

91. When the parties have been heard, and the exhibits received and considered, and the witnesses on both sides examined, the Moonsiff shall give judgment according to justice and right.—*Reg.* XXIII. 1814, *Sect.* 39.

The decision is to be passed after consideration of the pleadings, exhibits and evidence.

92. The decree shall specify the names of the parties, and the names of the witnesses examined, and the titles of the exhibits read. It shall also contain an abstract statement of the material facts alleged in the pleadings of both parties, and an elucidation of the principal grounds and reasons on which the decision may be passed. It shall state specifically the sum of money or the value or amount of personal property adjudged, and the amount of the costs or damages payable by the parties respectively. If any claim shall appear to the Moonsiff to be evidently litigious and vexatious, he shall ad-

What shall be contained in the decree.

Costs and damages to be awarded in the decree in suits which may appear to be litigious or vexatious.

judge suitable costs and damages against the plaintiff, and insert the same in the mode above directed in the decree.—*Reg.* XXIII. 1814, *Sect.* 40.

Two copies of the decree to be prepared and tendered to the parties.

93. When the decision shall have been thus passed, the Moonsiff shall cause two copies of it to be prepared, and after attesting them with his seal and signature, shall, within one week after the date of the decree, tender the said copies in open cutcherry, both to the plaintiff and defendant, or to their vakeels respectively; he shall endorse on the back of the said copies the actual date on which they may be tendered to the parties in open cutcherry, and if either or both of the parties shall fail to attend, or shall refuse to receive the copies so tendered, he shall certify the same on the back of the copies.—*Reg.* XXIII. 1814, *Sect.* 41. *Cl.* 1.

The date of the tender and the cause of the non-delivery of the copies to be certified by the Moonsiff and endorsed on the back of the copies.

Penalty for falsifying the date and purport of the endorsement and for keeping back copies of the decree from either of the parties.

94. Any Moonsiff who may be guilty of wilfully mistating, or falsifying, or of causing to be mistated or falsified, the date and purport of the endorsement above directed to be written on the copies of the decrees, or of keeping back such copies of decrees from either of the parties with the view of defeating or opposing a bar to their right of appeal, shall, on proof thereof to the satisfaction of the Provincial Court, be liable to dismission from office, and to such discretionary fine to Government as may be deemed proper by that Court.—*Reg.* XXIII. 1814, *Sect.* 41. *Cl.* 2.

Copies of decrees tendered by the Moonsiffs need not be written on stampt paper.

95. The copies of decrees above directed to be tendered to parties by the Moonsiffs, need not be written on stampt paper.—*Reg.* XXIII. 1814, *Sect.* 41, *Cl.* 3.

SECT. XXIV.

Execution of Decrees.

Rules regarding the execution of decrees passed by Moonsiffs.

96. All applications for the execution of decrees passed by the Moonsiffs, may at the option of the party, be made in the first instance to the Moonsiff, who on the receipt of such application is authorized and required to forward the same to the Judge with an endorsement, noting the names of the parties, an abstract of the decision, the date of the

decree, and the date on which a copy of the decree had been given or tendered to the parties; on the receipt of the information furnished as above required, the Judge shall be competent to direct the Moonsiff to enforce the decree, if for money, and to attach moveable property if necessary for this purpose, as well as to give possession of all other property not being land paying revenue to Government. It shall be nevertheless competent to the Judge, should he deem it preferable to enforce the decree by means of his own officers, or to employ any of the Sudder Ameens, attached to his Court in the execution of this duty; notice at the same time being given through the Moonsiff to the party applying for the execution of the decree.—*Reg.* V. 1831, *Sect.* 11.

Moonsiffs prohibited from executing their own decrees.

97. The Moonsiffs are strictly prohibited from enforcing their own decisions, and from issuing any process, or using any coercive means for that purpose, except in cases in which the Judge, under the power vested in him by Sections 51 and 52, may deem it expedient to employ them in the execution of that duty.—*Reg.* XXIII. 1814, *Sect.* 44.

[For Sections 51 and 52, is to be read Regulation V. 1831, Section 11.]

Mode of obtaining the execution of a decree passed by a Moonsiff.

A petition to be presented to the Judge.

98. Whenever a party who may have obtained a decree in the Court of a Moonsiff shall be desirous of having it enforced, he shall present a petition to the Zillah or City Judge, written on the stampt paper prescribed by Section 18, Regulation I. 1814. If the decree shall have been passed previously to the 1st of February 1815, the petition shall be presented within the period of one year from that date; if the decree shall be passed on or after the 1st of February 1815, the petition shall be presented within the period of one year from the date of the decree.—*Reg.* XXIII. 1814, *Sect.* 45, *Cl.* 1.

[The value of stamp paper is now regulated by Regulation X. 1829.]

What such petition is to contain

99. Such petition shall be presented either in person or through an authorized pleader of the Court, and shall contain a statement of the number of the suit, of the name

and designation of the Moonsiff by whom it was decided, of the names of the parties in the cause, of the date of the decision, and of the total sum which may have been adjudged to the petitioner either on account of the original claim or of costs of suit, the petition shall further state whether an appeal has, or has not been admitted from the Moonsiff's decision.—*Reg.* XXIII. 1814, *Sect.* 45, *Cl.* 2.

The original decree and the monthly report of causes decided to be examined.

100. When such petition shall be received, the Judge shall cause the purport of the petition to be compared with the decree in the original record of the suit, and with the statement contained in the monthly report of causes decided by the Moonsiff.—*Reg.* XXIII. 1814, *Sect.* 45, *Cl.* 3.

Mode of proceeding where an appeal may have been admitted.

101. If the suit shall have been regularly appealed, the execution of the Moonsiff's decree shall be suspended or otherwise, according to the rules in force.—*Reg.* XXIII. 1814, *Sect.* 45, *Cl.* 4.

[The Rules regarding the suspension or execution of decrees in cases appealed are given in the next Section; viz. Section XXV.]

If the periods limitted for the execution of decrees shall have elapsed, the party to be referred to a new suit.

102. If the petition for the execution of a Moonsiff's decree shall not be presented until after the periods prescribed in Clause First of this Section, (Par. 98,) and no satisfactory cause shall be shewn for the delay, such decree shall not be executed, but the party shall be allowed to institute a new suit in the Zillah or City Court; in the trial of such suits, the defendant shall not be allowed to impugn the merits of the original judgment, passed by the Moonsiff, unless the suit shall have been tried ex-parte in the first instance; but he may shew that the sum originally decreed, or any part of it, has been subsequently paid, or that the matter in dispute has been adjusted by the parties since the date of the original judgment.—*Reg.* XXIII. 1814, *Sect.* 45, *Cl.* 5.

What may be pleaded by the defendant in such suit.

If the limited periods shall not have elapsed the decree is to be executed.

103. If the petition for the execution of a Moonsiff's decree, shall be presented within the limited periods prescribed by Clause First of this Section, (Par. 98,) and no appeal shall have been preferred from the decision, such decree shall

be enforced in conformity with the regulations; provided however, that if the Judge shall have reason to believe that the decree was obtained in an irregular manner, or that on any other sufficient grounds it ought not to be enforced, he may permit the party against whom the decree may have been passed, to prefer an appeal from such decree, although the prescribed period for admitting such appeal may have elapsed.—*Reg.* XXIII. 1814, *Sect.* 44, *Cl.* 6. *Proviso.*

[These rules from Par. 98, to Par. 103, only apply to these cases in which the party who obtained the decree applies for its execution in the first instance to the Judge. By Regulation V. of 1831, the application may be made to the Moonsiff.]

104. With a view to prevent the protracted imprisonment of persons confined in execution of decrees for sums of inconsiderable amount, it is hereby provided in addition to the rule contained in Section 11, Regulation II. 1806, (1) that no person from and after the 1st February 1815, shall be liable to personal confinement, in satisfaction of a decree for any sum, not exceeding sixty-four Sicca Rupees, beyond a period of six months; but that at the expiration of that period, any person so confined, shall be entitled to be released; but any property which may belong to such person shall at all times, either during his imprisonment, or subsequently to his release, be liable to attachment and sale for the purpose of realizing the amount of the judgment, or such part thereof as may remain due.—*Reg.* XXIII. 1814, *Sect.* 45, *Cl.* 7.

No person to be imprisoned in execution of a decree not exceeding sixty-four Sicca Rupees for a longer period than six months.

But any property belonging to such person liable to be sold in execution of the judgment.

(1) *Relief of Insolvent Debtors.*

For the relief of insolvent debtors and their sureties, who may be in confinement for the satisfaction of the decrees of the Civil Courts, and may have no means of discharging the amount demandable from them, by instalments or otherwise, the Judges of the Zillah and City Courts, the Provincial Courts of Appeal, and the Court of Sudder Dewanny Adawlut, are further empowered, on receiving from the person, or persons confined, in such cases a statement upon oath, containing a full and fair disclosure of all property belonging to them, whether in land, money, or effects, or of whatever description; and whether held in their own names or in the names of any other persons, or jointly with others;

Relief of insolvent debtors.

to cause enquiry to be made for the purpose of ascertaining the truth of such statement, or the validity of any objections thereto, which may be offered by the party at whose instance the prisoner or prisoners may be in confinement; and in the result of such enquiry shall satisfy the Court, that the statement of property so delivered is true and faithful, and that the persons confined possess no other means of discharging the amount demandable from them, and the property included in the statement, or such part thereof as the Court may deem it proper to sell, in satisfaction of the judgment passed, shall be given up for sale; the Court on receiving such surrender of property, may cause it to be sold in the mode prescribed by the regulations; and may order the release of the person or persons, in confinement, either with, or without *hazerzaming* security, for his or their appearance when required. Provided however, that nothing in this section, which is meant to grant relief in cases of real inability, and fair dealing only, shall entitle any debtor or surety, confined under the judgment of a Civil Court to be released, without full satisfaction of such judgment, if he shall be guilty of any fraudulent concealment of property or shall have committed any manifest fraud or misdemeanor, which may appear to the Court to render him an improper object of the relief intended for persons acting with good faith, and willing to surrender all the property in their possession for the benefit of their creditors. Nor shall release from confinement, in any instance, under this section, prevent the creditor from bringing to sale (by application to the Court) in full payment of the sum adjudged due to him, any property which may be subsequently possessed by the party released; or from causing such party to be again confined until the judgment be fully satisfied when it may appear by sufficient proof that he had fraudulently concealed any property actually belonging to, and known to have been possessed by him, either in his own name; or that of others in his behalf at the time of his discharge. Provided further, that all proceedings held and orders passed by the Judges of the Zillah and City Courts, under the discretion vested in them by this section, shall, on representation of the parties affected thereby to the Provincial Courts

of Appeal, be open to the revision and determination of those Courts, and in like manner all orders passed by the Provincial Courts under this section shall be open to the final decision of the Sudder Dewanny Adawlut.—*Reg.* II. 1806, *Sect.* 11.

SECT. XXV.

Execution of Decrees in Cases appealed.

Persons suing for such property and obtaining a decree for it to have possession notwithstanding an appeal, on giving prescribed security.

105. Whenever a person claiming the proprietary right in land, houses, or other immovable property, not in his possession, shall obtain a decree, upon investigation of the merits of the case (whether in a Zillah or City Court, or in a Provincial Court of Appeal, before which the suit may be tried in the first instance) adjudging him to be the proprietor of such land, houses, or other immovable property; he shall obtain possession thereof in execution of such decree, notwithstanding an appeal therefrom, provided he shall give good and sufficient security, for performing the decree which may be passed upon the appeal, in a sum equal to one year's produce of the property adjudged, if malgúzaree land; or ten years' produce, if the land be lakheraj; or the computed value, if it be a house, or immovable property of any other description. —*Reg.* XIII. 1808, *Sect.* 11, *Cl.* 2.

Unless the Court to which the appeal is preferred, see cause for allowing the appellant to retain possession.

106. Provided however that if the Court, to which the appeal may be preferred in such cases, shall, in any instance, see special cause for leaving the appellant in possession during the appeal, it shall be competent to that Court to order the same; requiring in such case, from the appellant, the same security as is above required to be given by the respondent. —*Reg.* XIII. 1808, *Sect.* 11, *Cl.* 3.

Provision for cases of non-payment of revenue of disputed lands during an appeal.

107. Provided further, that whether the appellant or respondent be left in possession of lands paying revenue to Government, during an appeal, if the party in possession of such lands shall neglect to pay the revenue due upon the assessment; and a public sale shall in consequence be ordered to take place; the party not in possession, by payment of the

revenue due, and giving the prescribed security, previously to the sale, shall be put in immediate possession; and shall be entitled to charge the amount so paid, with interest thereupon, at the rate of one per cent. per mensem, in any adjustment of accounts which may be directed in the final decree upon the cause.—*Reg.* XIII. 1808, *Sect.* 11, *Cl.* 4.

Any private transfer or mortgage of land, or other real property, during appeals, declared null and void, in the event of the judgment against such property being confirmed on the appeal.

108. In all instances wherein the plaintiff in a Zillah or City Court may obtain a judgment in his favour for land or other real property, and the defendant appealing therefrom to a Provincial Court, may be left in possession of the property, under the security prescribed by the regulations, any private transfer of such property by sale, gift, or otherwise, or any mortgage thereof which might be made by such appellant during the appeal to the Provincial Court, or during a further appeal to the Court of Sudder Dewanny Adawlut, would, in the event of the judgment against him being confirmed on the Appeal, be of course, and is hereby declared to be, null and void: but as malguzaree lands (lands assessed with the public revenue) are in all cases, by whomsoever possessed, held answerable for the public revenue assessed thereon, and as according to the general rules established for the collection of the public revenue, such lands, and also lakheraj lands, and other property appertaining to the same estate, may become liable to sale by Government, from the neglect of the party in possession to discharge the revenue due therefrom, by which sale, in cases of appeal, the party to whom the property of the lands is ultimately adjudged, might notwithstanding be deprived of it, unless he purchased the same at the public sale, to obviate all doubt respecting the right of the party making the purchase in such cases, it is hereby declared, that whenever any land or other property, for which a judgment may have been obtained in any of the established Courts of justice, but which, during an appeal from such judgment by the party cast, may be left in the possession of the appellant, shall, while such appeal is pending, or before the ultimate judgment thereon be put in execution, be sold by Government to make good an arrear of the public revenue due from the appellant, and shall be purchased by the respondent; the party so purchasing in the

Provision for the public sale of the property adjudged, in such cases, on account of the public assessment.

Rights of respondent in such cases, who may purchase the property sold by Government, and ultimately adjudged to him on the appeal.

event of such property being finally adjudged to him on the appeal, shall be entitled to recover from the appellant, so left in possession, the full amount of his purchase money, of all expenses attending the purchase so made by him, with interest thereon at the rate of twelve per cent. per annum in addition to any other sum which may be adjudged due to him on account of the profits arising from the land, or other property in question, anterior to the sale. It is further declared, that in the case above supposed, if the respondent shall not have purchased the land, or other property, sold by Government to make good an arrear of public revenue due from the appellant left in possession thereof; and if the ultimate judgment on the appeal be in favour of such respondent; he shall be entitled to recover from the appellant left in possession the amount of the purchase money paid for the property so sold, and adjudged to the respondent; with interest thereon at the rate of twelve per cent. per annum, in addition to any other sum which may be adjudged to him on account of the profits, arising from the property so sold anterior to the sale of it; unless the property in question shall have been directly or indirectly purchased by the appellant himself, or in his behalf, at the public sale, in which case, on clear proof thereof being made by the respondent to whom such property may be ultimately adjudged, he shall be entitled to the possession thereof, and to all profits arising therefrom, as may be directed by the decree in the case, notwithstanding the fictitious sale supposed.—*Reg.* V. 1798, *Sect.* 4.

Rights of respondent in such cases who may not purchase the property sold by Government, and ultimately adjudged to him on the appeal.

109. The principles of the rules contained in the two preceding Sections, (Par. 93,) are to be considered equally applicable to cases in which the plaintiff in a Zillah or City Court may be put in possession of land, or other property adjudged to him, during an appeal, in consequence of the defendant's failing to give security for staying the execution of the decree as required by the regulation; and generally to all cases in which the possession of property may be transferred by the decree of any Court of justice; from which decree an appeal may be depending in a superior Court; whether a Provincial Court of Appeal; or the Court of Sudder Dewanny Adawlut; or his Majesty in Council, in the cases for which an appeal

Principles of the preceding section declared to extend to all similar cases, whether the original plaintiff or defendant, or the appellant or respondent, be left in possession of the property during an appeal to the Provincial Courts, or to the Sudder Dewanny Adawlut, or to the King in Council.

to him is provided by Regulation XVI. 1797, and the act of parliament therein recited.—*Reg.* V. 1798, *Sect.* 5.

Provision for cases wherein neither the appellant or respondent may be able to give the prescribed security for staying the execution of decrees during appeals.

110. As cases may occur wherein neither the appellant nor the respondent may be able to give the prescribed security for staying the execution of decrees, or for the execution thereof in favour of the plaintiff, as provided in Section 2 of Regulation XIII. 1796, and Section 3 of this Regulation, is hereby enacted, that in all such cases, the property adjudged, shall be held in attachment during the appeal, or until such time as one of the parties may be able to give the required security, by the collector of the district wherein the land may be situated, at the expense of the party who may be ultimately declared entitled thereto, and under the provisions contained in Regulation XLV. 1793, relative to the attachment of lands for sale in pursuance of decrees of the Courts of justice, as far as the same are applicable. No attachment, however, is to be made by any collector in the cases herein supposed until he receive a precept, requiring him to make the same, from the Zillah or City Court wherein the original judgment in the cause may have been passed which precept shall state specifically the property to be included in the attachment, and shall require the collector to continue the same till ordered to be withdrawn by a further precept from the Court, to be issued either on the prescribed security being given by one of the parties or on the cause being finally determined.—*Reg.* V. 1798, *Sect.* 6.

The collectors, under certain restrictions, to hold the adjudged property in attachment, in such cases.

Rules regarding the attachment of lands.

Board of Revenue empowered to order the attachment of lands directed to be sold.

The Board of Revenue are empowered, in cases in which it may appear to them expedient to direct the collector to attach the lands ordered to be sold, by deputing an ameen to take charge of them, or by placing them under the nearest tehsildar or other revenue officer. The officer to whom the lands may be committed is to collect the rents and revenues, to prevent waste being committed by the proprietor and to furnish any information that may be required for the adjustment of the jumma.—*Reg.* XLV. 1793, *Sect.* 5.

Expenses of the attachment and sale to be defrayed by the proprietor.

The expenses attending the attachment and state of the lands, after being approved by the Board of Revenue, are to be charged to the account of the proprietor, and are

to be defrayed either from the collections made from the lands, or from the proceeds of the sale, if the collections shall be insufficient for that purpose.—*Reg.* XLV. 1793, *Sect.* 6.

Proprietor of the lands may appoint officers to keep counterparts of the Ameen's accounts.

Rules to be observed by the Ameen in making the collections.

The proprietor of the lands to be sold may appoint his dewan, or any other person whom he may think proper, to keep a counterpart of the accounts of the receipts and disbursements of the Ameen. The Ameen is to collect according to the engagements that may subsist between the proprietor and his dependent talookdars. under farmers, and ryots, and is not to make any alterations whatever in such engagements, or exact more than the amount specified in them, whether they be conformable to Regulation XLIV. 1793, or not, and he shall be liable to a prosecution in the Dewanny Adawlut, for any alteration or infringement of such engagements in opposition to this section. In cases in which no engagements may exist between the proprietor and his dependent talookdars, under farmers, or ryots, the Ameen is to collect from them according to the established rates and usages of the Pergunnah. The Ameen shall likewise be subject to a prosecution by the proprietor or farmer of the estate for embezzlement, or injuries done to the estate or farm during the time that the collection of the rents and revenues of it may be entrusted to him.—*Reg.* XLV. 1793, *Sect.* 7.

Present rules for staying the execution of decrees during appeal, in causes for moveable property, to remain in force with following addition.

111. The provisions contained in the preceding Section not being applicable to the execution of decrees for money, or other moveable property; such decrees shall be stayed, or enforced, in cases of appeal, according to the rules now established with the following addition thereto.—*Reg.* XIII. 1808, *Sect.* 12, *Cl.* 1.

What security to be given by appellants in such cases.

112. The security to be given by appellants for staying the execution of decrees appealed from, in cases of money, or other moveable property, or by respondents, when such decrees are carried into execution during an appeal, shall be sufficient, in addition to the amount or value adjudged, to cover the interest that may be expected to arise upon the amount payable under the decree, if confirmed in appeal,

according to the provision (1) for adjudging interest in such cases, made by Section 3, Regulation XIII. 1796, and Section 35, Regulation IV. 1803.—*Reg.* XIII. 1808, *Sect.* 12, *Cl.* 2.

(1) *Provision for adjusting interest.*

Interest to be allowed on sums adjudged by the decree appealed from, if confirmed, and litigious appeals to be punished by fine.

To prevent an abuse of the above rule, and the encouragement of litigious appeals, the Provincial Courts of Appeal, in all cases wherein they may confirm the decree of a Zillah or City Court, and the Sudder Dewanny Adawlut, in all cases wherein it may confirm the decree of a Provincial Court, are to adjudge interest at the rate of one per cent. per mensem on all sums receivable by the respondent under the decree passed in his favour, from the date of such decree, and are authorized to punish appeals which may appear to them litigious, by a fine to Government, proportionate to the condition of the party, and the circumstances of the case.—*Reg.* XIII. 1796, *Sect.* 3.

Sureties prohibited from transferring their rights in any immovable property on which their security may have been accepted.

113. All persons who may enter into security bonds for the purposes mentioned in the preceding clause, are prohibited from transferring, or from causing to be transferred, by sale, gift, mortgage, or otherwise, any land or other moveable property belonging to them, and specified in the schedule of property on which their security may have been accepted, until the object of their security shall have been completely fulfilled.—*Reg.* XXVI. 1814, *Sect.* 13, *Cl.* 2.

Explaining the purport and intent of the foregoing prohibition.

114. This prohibition however shall not be construed to affect the legality of any private transfer or mortgage of such property, in cases in which the amount of any demand on the surety, which may eventually arise under the terms of the security bond, shall be duly discharged by him; but it is hereby declared, that no private transfer or mortgage of such property which may be made by a surety in the interval between the execution of the security bond, and the final and complete enforcement of the judgment, shall be considered to bar the prior right of the Court to hold the whole or any part of such property answerable in the first instance for the amount of any demand upon it, which may eventually arise under the terms of the security bond, and

which may not be duly discharged by the surety.—*Reg.* XXVI. 1814, *Sect.* 13, *Cl.* 3.

Judges taking security in cases of appeal to be careful that it be good and sufficient.

115. The Judges of the several Courts, by which security may be taken from appellants or respondents, for performing the decrees to be passed on appeals, are enjoined to be particularly careful in ascertaining that the security received is good and sufficient; and they are required, in all cases, to cause the Nazir or other officers, by whom the property of the sureties may be ascertained, to deliver in as accurate a statement as can be obtained of such property; with a full report of the inquiry made respecting it; informing him at the same time, that he will be held responsible for any wilful misrepresentation in his statement or report.—*Reg.* XIII 1808, *Sect.* 13.

Measures to be adopted for this purpose.

SECT. XXVI.

Appeals from Moonsiffs' Decisions.

Mode of admitting appeals from the decisions of Moonsiffs.

116. Any person dissatisfied with the decision of a Moonsiff, shall be at liberty to appeal from it to the Judge, provided the petition of appeal be presented within thirty days after the date on which copies of the decrees may have been furnished or tendered to the parties or to their vakeels, in conformity with Section 41 of this Regulation (Par. 93); a discretionary power however is vested in the Judge of admitting appeals from decisions of the Moonsiffs, although the petitions may not be presented within the prescribed period if the appellant shall shew satisfactory cause for not having before presented the petition.—*Reg.* XXIII. 1814, *Sect.* 46, *Cl.* 1.

Petitions of appeal from decisions of Moonsiffs to be presented to the Judge.

117. All petitions of appeal from decisions of the Moonsiffs are to be presented to the Judge of the Zillah or City in which the Moonsiffs may officiate, and the Moonsiffs are prohibited from receiving any petitions of appeal from their own decisions.—*Reg.* XXIII. 1814, *Sect.* 46, *Cl.* 2.

How such petitions are to be presented.

118. All petitions of appeal from decisions of Moonsiffs are to be presented by the appellant in person, or by one of the authorized vakeels of the Court; and if the appeal shall be

admitted, and the appellant and respondent shall not plead their cause in person, their respective vakeels are to be allowed the same fees as in other suits tried before the Judge. —*Reg.* XXIII. 1814, *Sect.* 46, *Cl.* 3.

Decisions of Moonsiffs not to be set aside for want of form.

119. Decisions of the Moonsiffs are not to be set aside for want of form or for irregularity in their proceedings, but on the merits only.—*Reg.* XXIII. 1814, *Sect.* 46, *Cl.* 4.

In what cases the Judge may suspend the execution of decrees passed by Moonsiffs, from which an appeal may be admitted.

120. When an appeal may be received from the decision of a Moonsiff, the Judge is empowered to suspend the execution of the decree, provided the party appealing against it, shall give good and sufficient security within a reasonable period to be fixed by the Judge to perform the decree of the Court. —*Reg.* XXIII. 1814, *Sect.* 46, *Cl.* 5.

Rules hitherto in force regarding reference of appeals from the decisions of Moonsiffs, to Sudder Ameens or Registers.

121. Appeals admitted from the decision of the Moonsiffs have been hitherto referred, at the discretion of the Zillah and City Judges, to the Sudder Ameens, or Registers duly empowered to try them, under the rules contained in Clause Fourth, Section 7, and Clause Fourth, Section 9, Regulation XXIV. 1814, subject to a second or special appeal to the Zillah and City Judges as therein provided.—*Reg.* V. 1831, *Sect.* 16, *Cl.* 1.

In modification of these rules, whenever the number of appeals before the Judge is heavy, he may obtain permission from the Sudder Dewanny Adawlut to refer a specific number to the Principal Sudder Ameen.

122. In modification of this provision, however, it is hereby enacted, that it shall not be competent to a Zillah or City Judge to refer any appeal for trial to a Sudder Ameen, even though he may have been specially empowered under the rule above cited, but whenever it may appear to any such Zillah or City Judge that his file is so heavy as to make it impracticable for him to dispose of all the appeals which may be pending with reasonable dispatch, he shall make a special report of the case to the Sudder Dewanny Adawlut, soliciting permission of that authority to refer such specified number of appeals from the decisions of Moonsiffs or Sudder Ameens, as he may deem necessary for trial, to the Principal Sudder Ameen attached to his Court, to be appointed under the rules prescribed in Section 17 of this Regulation, in which case it shall be competent to the Court of Sudder

Dewanny Adawlut to comply with the application for the transfer, and the rules prescribed in the preceding Clause shall be held applicable to such appeals.—*Reg.* V. 1831, *Sect.* 16, *Cl.* 2.

Rules regarding the conduct of appeals by the Judge.

123. Whenever an appeal shall be preferred to a Zillah or City Judge from the decision of any Moonsiff, Sudder Ameen, or Principal Sudder Ameen, it shall not be necessary to serve any process on the respondent in the first instance, and if after the perusal of the record of the original suit and the petition of appeal in the presence of the appellant or his vakeel, the Judge shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same and to communicate the order for confirmation through the Court from whose judgment the appeal was made to the respondent, with a view to enable such respondent to take immediate measures for the execution of the decree.—*Reg.* V. 1831, *Sect.* 16, *Cl.* 3.

[The rules regarding second or special appeals will be found in the Third Chapter under the head of Principal Sudder Ameens.]

123†. In appeals from the decisions of the Moonsiffs or Sudder Ameens the decisions of the Zillah or City Judge shall be final, any thing in the existing Regulations to the contrary notwithstanding.—*Reg.* V. 1831, *Sect.* 28, *Cl.* 1.

SECT. XXVII.

Periodical Reports.

Monthly report of suits decided and proceedings on such suits to be transmitted to the Judge.

124. It shall be the duty of the Moonsiffs to transmit to the Judge on the fifteenth of each month, or as much sooner as may be practicable, a report of all the suits decided by them in the preceding month, drawn up according to the annexed form No. 5, of the Appendix. These reports shall be accompanied by all the original papers and documents in the case, that they may be deposited among the records of the Court.—*Reg.* XXIII. 1814, *Sect.* 43, *Cl.* 1.

Form of Monthly Report of Causes decided by A. B. Moonsiff or Sudder Ameen of in the month of corresponding with the month of

Number of the Suit on the Register Book, and date of its institution (or reference.)	*Names of the Parties.*	*Substance of the Suit.*	*Date and Substance of the Decision.*	*Value of stampt paper on which the Plaint was written.*
No. 6. 4th February, 1815.	Ramchurun *vrs.* Radanauth.	Debt of 20 Rupees.	Decreed on the 3d April for 20 Rs. and 2 Rs. 8 As. Costs.	2 Rupees.

App. to Reg. XXIII. 1814, *No.* 5.

Half yearly report of depending suits to be transmitted to the Judge according to a prescribed form.

125. The Moonsiffs shall likewise be required to transmit on the 15th of January and 15th of July of each year, or as much sooner as may be practicable, a report of the causes depending before them on the 1st of January and 1st of July, drawn out according to the annexed form No. 6, of the Appendix.—*Reg.* XXIII. 1814, *Sect.* 43, *Cl.* 2.

Half yearly Report of Causes depending before A. B Moonsiff or Sudder Ameen of on the 1st of July 1815.

Number of the Cause on the Register Book and date of its institution (or reference.)	*Names of the Parties.*	*Substance of the Suit.*	*Remarks explanatory of the Cause remaining undecided.*
No. 96. 4th of May, 1815.	Ramchurun *vrs.* Gungaram.	30 Rupees Balance of Accounts.	Suspended for the evidence of witnesses on the part of the defendant who have been summoned.

App. to Reg. XXIII. 1814, *No.* 6.

Monthly and half yearly reports how to be forwarded to the Judge.

126. The required monthly and half yearly reports shall be enclosed in a cover addressed to the Judge, and sealed with the seal of the Moonsiff. The packet shall be forwarded to the Judge either by the public dawk, (the officers of which are hereby required to receive and convey such packets free of postage,) or by a servant of the Moonsiff, or the Moonsiff may deliver it to the nearest police darogah who shall give a receipt for it, and convey it to the Judge. The

Moonsiffs are directed to seal and fasten the public packets and reports which they may have occasion to transmit to the Court, in such a manner as may enable the Court to detect any instance in which the packets may be opened, or the seals broken, during the transmission to the Court.—*Reg.* XXIII. 1814, *Sect.* 43, *Cl.* 3.

Moonsiffs to furnish monthly statements of suits.

127. The Moonsiffs shall accompany the monthly Reports required from them by Section 43, Regulation XXIII. 1814, (Par. 124,) with a statement of the suits instituted before them in the preceding month.—*Reg.* V. 1831, *Sect.* 10.

SECT. XXVIII.

Extra Duties of Moonsiffs.

The Judges may employ the Moonsiffs in the investigation of questions respecting local rights and usages.

128. In questions which may arise in suits depending before the Judge of any Zillah or City Court relating to the adjustment of accounts in revenue or mercantile transactions, or regarding the boundaries of lands or houses, or regarding the right of way in roads or pathways, or regarding any rights in forests, commons, rivers, lakes, ponds, wells, reservoirs or water courses, or regarding the quantity or description of land and the rent to which it is liable, and generally in all questions of local rights and usages which cannot be conveniently decided without an enquiry on the spot, the Zillah or City Judge may empower any Moonsiff within his jurisdiction to make a local investigation into the merits of the question in dispute.—*Reg.* XXIII. 1814, *Sect.* 50, *Cl.* 1.

Instructions and proceedings to be furnished to the Moonsiffs in such cases.

129. The Zillah or City Judges shall furnish to the Moonsiff such part of the proceedings, and such detailed instructions in each case, as may be necessary for his information and guidance, and shall enjoin the Moonsiff, either merely to take the requisite evidence in the presence of the parties or their vakeels, and to transmit the same to the Court, or likewise to transmit with the evidence so taken, a report of his own sentiments on the point at issue founded on the result of the investigation held by him.—*Reg.* XXIII. 1814, *Sect.* 50, *Cl.* 2

The proceedings of the Moonsiffs to be received as evidence in such cases, unless the Judge may be dissatisfied with them.

130. The proceedings of the Moonsiff are to be received as evidence in the case with regard to the specific matter, which he may have been directed to investigate, but if the Judge shall have reason to be dissatisfied with the proceedings of the Moonsiff, he is at liberty to make such further enquiry as may be requisite, and to pass such ultimate judgment as may appear to him to be right and proper.—*Reg.* XXIII. 1814, *Sect.* 50, *Cl.* 3.

Moonsiffs may be employed in giving possession of real property under decrees.

131. The Zillah and City Judges are further authorized to employ the Moonsiffs in delivering over formal possession of lands, houses or other real property in conformity with decrees regular or summary.—*Reg.* XXIII. 1814, *Sect.* 51, *Cl.* 1.

The same officers to be employed in the sale of houses, &c. as in the sale of landed property.

132. The Judges and Registers of the Zillah and City Courts, who usually employ the Nazirs of those Courts, or the Sudder Ameens at the station of the Judge and Register, and the local Moonsiffs in other parts of their jurisdictions, to conduct the public sale of personal property in execution of decrees, or other judicial process, are hereby authorized to employ the same officers, when it may appear expedient, in the public sale of houses, gardens, orchards, or small portions of lakheraj land, under the provisions of this Regulation.—*Reg.* VII. 1825, *Sect.* 3, *Cl.* 1.

Moonsiffs how to be remunerated for their trouble in such cases.

133. Previously however to issuing any instructions to a Moonsiff for the performance of any of the duties described in this or the preceding Section, the Judge shall require either the plaintiff or the defendant, according to the circumstances of the case, to pay into Court such a sum of money as may be an adequate remuneration to the Moonsiff for his trouble, provided such sum do not exceed the probable expense which would be incurred if an Ameen or a native officer of the Court were employed in the execution of the same duty.—*Reg.* XXIII. 1814, *Sect.* 51, *Cl.* 2.

Such remuneration to be forfeited if the Moonsiff shall have been guilty of miscon-

134. The Moonsiff shall be entitled to receive such sum as may have been paid into Court under the preceding clause, except under circumstances, in which he may appear to have

performed the duty entrusted to him in a negligent, unjust, or improper manner; in such cases the said sum of money shall be returned to the party who deposited it in Court.—*Reg.* XXIII. 1814, *Sect.* 51, *Cl.* 3.

duct in the execution of the duty.

135. The Moonsiffs may be employed at the discretion of the Zillah and City Judges in the attachment and sale of personal property for the purpose of realizing the amount of fines, or of decrees regular or summary, and shall be entitled to receive a commission of one anna in each rupee on the proceeds of such sales.—*Reg.* XXIII. 1814, *Sect.* 52.

Moonsiffs may be employed to sell personal property by order of the Judge, and shall receive a commission on the proceeds of such sale.

136. The Zillah and City Judges are further empowered to employ the Moonsiffs in ascertaining and reporting upon the sufficiency of securities, and the indigence of persons suing in *formâ pauperis*.—*Reg.* XXIII. 1814, *Sect.* 53.

Moonsiffs may be directed to report on the sufficiency of securities, and the indigence of paupers.

137. The provisions of the preceding Sections are not intended to preclude the Zillah and City Courts from deputing an Ameen for local enquiries, or from employing the authorized officers of the Court in the execution of the various duties above detailed, whenever they may deem it expedient to do so in conformity with the existing regulations; and the Zillah and City Judges will be careful, that the time of Moonsiffs be not so much occupied in the miscellaneous duties above described as to interfere materially with the early trial and decision of the regular suits depending before them.—*Reg.* XXIII. 1814, *Sect.* 54.

The preceding rules are not to preclude the employment of Ameens or other officers of the Court.

Judges to be careful that the time of the Moonsiffs be not too much occupied in miscellaneous duties.

138. The Moonsiffs shall continue to discharge the same functions and to exercise the same powers as are at present vested in them by the Regulations in force regarding distress and sale for the recovery of arrears of rent.—*Reg.* XXIII. 1814, *Sect.* 55.

Moonsiffs to act as heretofore in the sale of distrained property.

SECT. XXIX.

Authority to sell distrained Property.

139. To facilitate the sale of distrained property, every person having a commission from the Judge of the Zillah to

Native Commissioners appointed under Regulation

XL. 1793, empowered to sell distrained property.

hear and determine civil suits not exceeding fifty rupees, under Regulation XL. 1793, is authorized and required to dispose of, under the rules prescribed to Cauzies in Regulation XVII. 1793, and this Regulation, any property that may be distrained in the pergunnah in which he may reside, and for the sale of which application may be made to him. The Cauzies are likewise to continue to exercise the authority vested in them by Regulation XVII. 1793, and this Regulation, and where a greater number of persons to be vested with this authority, shall be requisite in any pergunnah for facilitating the sale of property, the Judge is empowered to appoint them. But no person vested with the power of disposing of distrained property, shall sell property that may have been distrained for arrears due to himself. Persons of this description, having occasion to levy arrears by distress, are to apply to some other person duly empowered for the sale of the property.—*Reg.* XXXV. 1795, *Sect.* 8.

Recapitulation of Section 8, Regulation XXXV. 1795.

140. By Section 8, of Regulation XXXV. 1795, the native commissioners appointed to determine suits not exceeding fifty rupees, under Regulation XL. 1793, are authorized and required to dispose of distrained property under the prescribed rules, on application made to them, and the Zillah Judges are empowered to appoint as many other persons as may be requisite for facilitating the sale of property under distraint for arrears of rent. It is therefore no longer necessary to vest the Cauzies generally with the powers delegated to them by Regulation XVII. 1793, and it is now declared that such Cauzies only shall be authorized to sell distrained property, under the provisions contained in Regulation XVII. 1793, and the subsequent rules in modification thereof, as may have been appointed commissioners for the trial of civil suits under Regulation XL. 1793, or who may be appointed commissioners for the sale of distrained property under Section 8, of Regulation XXXV. 1795, it is expected that the Zillah Judges will pay due regard to the character and qualifications of all persons whom they may appoint under this Regulation; and they are to furnish the commissioners so appointed by them with com-

Cauzies appointed under above Section, or under Regulation XL 1793, authorized to sell distrained property, but no others.

Zillah Judges to regard the character and qualifications of persons appointed by them to sell distrained property.

missions (sunnuds) under their official seals and signatures in the following form:

Form of commission given to the persons so appointed.

I, A. B. Judge of the Dewanny Adawlut of the Zillah of , in virtue of the powers vested in me by Regulation XXXV. 1795, appoint you , commissioner for the sale of property distrained on account of arrears of rent, in pursuance of the above Regulation, and of Regulations XVII. 1793, and VII. 1799. You are to reside at , in Pergunnah ; and are to exercise the authority vested in you by the above regulations, or by any others that may be hereafter transmitted to you for your guidance, in strict conformity thereto; and are to keep a regular and complete record of your proceedings, to be produced when called for.—*Reg.* VII. 1799, *Sect.* 6.

Commissioners for civil suits under Regulation XL. 1793, and Tehsildars appointed by the Collectors, to be considered commissioners for the sale of distrained property by virtue of their offices

But all commissioners for the sale of distrained property are to furnish any reports or information required from them by the Zillah Judges.

And no person receiving a commission under Section 6, of this Regulation, to be deprived of it whilst resident on the spot, without the sanction of the Sudder Dewanny Adawlut.

Rules for the appointment and removal of commissioners for civil suits under Regulation XL. 1793, declared applicable to the commissioners above referred to.

141. The commissioners for the trial of civil suits appointed under Regulation XL. 1793, and the tehsildars appointed by the collectors for the collection of the public revenue, who are authorized to sell distrained property by Section 29, of Regulation XVII. 1793, are to be considered commissioners for the sale of distrained property by virtue of their offices of commissioners for civil suits, and tehsildars, so long as they may continue to hold such offices; and any separate commissions to them for this purpose will not be requisite; but the whole of the commissioners appointed to sell distrained property are at all times to furnish any reports or other information that may be required from them by the Zillah Judges; and no person receiving a commission under Section 6, (Par. 140,) of this Regulation, is to be deprived of it whilst he may reside on the spot without sufficient reason assigned to the satisfaction of the Court of Sudder Dewanny Adawlut, to whom the Zillah Judges are to report all appointments made, and commissions issued by them under this Regulation, in the same manner, and under the same rules, as have been prescribed for the nomination and removal of commissioners for the trial of civil suits by Regulation XL. 1793.—*Reg.* VII. 1799, *Sect.* 7.

Judges of Cities of Dacca, Moorshedabad, and Pat-

142. The Judges of the cities of Dacca, Moorshedabad, and Patna, are authorized to appoint any number of commission-

Zillah Judges authorized to appoint commissioners for the sale of distrained property within their respective jurisdictions.

ers that may be requisite for the sale of distrained property within their jurisdictions respectively, in like manner and form as has been prescribed to the Zillah Judges.—*Reg.* VII. 1799, *Sect.* 8.

SECT. XXX.

Penalties for Abuse of Authority.

Penalty for attaching property, if no arrear be due.

143. If any person vested with the power of distraint shall attach, or cause to be sold, the property of any under-farmer, ryot, or dependant talookdar for arrears of rent or revenue, and it shall appear upon trial that no arrear was due, the distrainer shall be compelled to restore the property to the owner, or to make good to him the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and to pay to him as damages a sum adequate to the value of such property, and all costs of suit.—*Reg.* XVII. 1793, *Sect.* 6.

Distrainers to furnish the person they may depute to distrain with a writing specifying the amount of the arrear, and the date on which it became due.

144. Distrainers shall deliver to the person whom they may depute to attach the property of a defaulter, a writing under their seal and signature, specifying the amount of the arrear for which the attachment may be issued, and the date on which such arrear became due. The person so deputed shall produce this writing as his authority for making the attachment, and on the day on which he may attach the property, shall deliver a copy of it to the stated defaulter, endorsing thereon a list or inventory of the property attached, and the name of the place where it may be lodged or kept, with a notice that it will be sold on the fifteenth day commencing from the day following the day on which the attachment took place; or, if the property attached shall consist of crops or other ungathered products of the earth, within fifteen days calculating from the day following the day on which such crops or products may be stored as directed in Section 13, unless the arrear and expenses of the attachment shall be previously discharged, or he shall contest the demand, and procure the attachment to be withdrawn in the manner hereafter specified. If the defaulter shall be absent a copy of the above writing with the prescribed endorse-

Copy of the writing, with list of the property distrained, name of the place where it is lodged, and notice that it will be sold, endorsed thereon, to be delivered to the defaulter or left at his place of residence in case of his absence.

ment shall be fixed up or left at his usual place of residence before the expiration of the third day calculating from the day of the attachment. If any person vested with the power of distraint shall cause any property to be attached without furnishing the agent whom they may employ for that purpose with the writing above directed, or if such agent shall be furnished with the writing prescribed, and shall omit to deliver a copy of it with the required endorsement to the defaulter, or, in the event of his absence, to leave such copy at his place of residence within the period limited, the distrainer shall not be entitled to recover the arrear for which the distress may have been levied, and he shall be compelled to restore the property to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and to pay all costs of suit.—*Reg.* XVII. 1793, *Sect.* 3.

Penalty.

SECT. XXXI.

Defaulters.

145. Under-farmers, Ryots, and dependant Talookdars, shall not be considered to have defaulted until the arrears have been ineffectually demanded from them, and also from their surety, if they shall have given security, and the surety shall be forthcoming, and when, as the last resource, an attachment shall be issued against the property of a defaulter, the responsibility of the surety shall not be thereby in any degree diminished.—*Reg.* XVII. 1793, *Sect.* 5.

When under-farmers, &c. are to be considered to have defaulted.

Sureties not exonerated by the distraint of the property of defaulters.

146. Persons who tenant or under-farm lands in the name of their children, dependants, or others, or in the names of fictitious persons, and give themselves as the ostensible sureties for the performance of the agreement, but retain the actual management of the lands, and in fact are themselves the under-farmers or ryots of such lands, shall to all intents and purposes, be considered as the under-farmers or ryots of such lands, and their property shall be liable to be distrained and sold for arrears under this regulation, in the same manner as if the engagement for the lands had stood in their own names.—*Reg.* XVII. 1793, *Sect.* 27.

Persons who under names of sureties farm or tenant lands in the name of others, to be considered the actual ryots or farmers of such lands.

SECT. XXXII.

Rules for Attachment.

147. [Vide the rules in Par. 144, and also the following enactments.]

Distrainers allowed to affix their signature only to writings for the distress of property.

148. In future, distrainers are permitted to affix their signature only to writings for the attachment of property, instead of both their seals and signatures, as required by Section 8, Regulation XVII. 1793, (Par. 144.)—*Reg.* XXXV. 1795, *Sect.* 3.

Notice of fifteen days directed in Section 8, of Regulation XVII. 1793, and period of fifteen days fixed by Section 5, of Regulation XXXV, 1795, for sale of attached property rescinded.

Future notice to be given to defaulters.

149. The notice of fifteen days for the sale of attached property directed in Section 8, of Regulation XVII. 1793, and the period of fifteen days from the time of attachment fixed for the sale of such property by Section 5, of Regulation XXXV. 1795, are hereby rescinded: and the notice to the defaulter, directed to accompany the inventory of the attached property to be delivered to him, shall inform him only of the arrear due and the intention of the distrainer to bring the attached property to immediate public sale for the discharge of it, unless the amount and expenses of attachment be previously paid. If the defaulter on receiving this notice shall neglect to pay the amount due from him, or to give such assurance of early payment as may be satisfactory to the distrainer; or if the defaulter shall have absconded or be otherwise absent, so that the notice cannot be served on him; the distrainer is to transmit an inventory of such part of the attached property as can be brought to immediate sale, to the nearest Cauzy or other public officer empowered to sell distrained property, with a written request that he will cause the same to be publicly sold for the discharge of the arrear due, the amount of which is also to be specified in the application, together with the place where the property may be in attachment; and if it be the intention of the distrainer to remove it, under the discretion vested in him by Section 12, of Regulation XVII. 1793, the place to which such removal is intended. The Cauzy or other authorized officer, on the receipt of such application, is to pro-

Inventory and particulars to be transmitted by distrainer to cauzy or other officers empowered to sell distrained property.

Cauzy or other officer how to proceed, on receiving

ceed as directed in Section 5, of Regulation XXXV. 1795, (Par. 145,) under the following further provisions, viz. instead of fixing the day of the sale on the fifteenth day after the attachment, he shall fix as early a day for the sale as may be compatible with a due observance of the other directions in the above section for the appraisement of the property, and the publication of the intended sale of it, which is to be made by beat of drum on one market day at the least before the market day on which the sale may take place, as well as on the morning of the day of sale; and the sale is in no instance to take place before the expiration of five complete days after the attachment, exclusive of the day on which the attachment may have been made. The same principle is to be observed with respect to the sale of ungathered products after the distrainer shall have gathered and stored them, as required by Section 13, of Regulation XVII. 1793, and which are not to be sold until publication shall have been made as above directed. In consequence of this alteration, which is made with a view to expedite the sale of distrained property, distrainers, when they attach the property of persons employed in the provision of the Company's investment, or in the manufacture of salt, are to give the notice directed in Section 31, of Regulation XVII. 1793, as soon as possible after making the attachment; and in such cases the property is not to be sold until sufficient time has been given to enable the Company's officers to satisfy the demand before the day of sale. The notice required by the above section however may, at the option of the distrainer, be either given to the commercial resident, or salt agent, in whose division the defaulter may have been employed, or to the native superintendent of the factory or salt chokee to which the defaulter may be attached.—*Reg.* VII. 1799, *Sect.* 4.

applications for the sale of distrained property.

No sale to take place before expiration of five complete days after the attachment.

Or after storing products ungathered at the time of attachment.

Notice to commercial residents and salt agents, directed in Section 31, of Regulation XVII. 1793, to be given as soon as possible after attaching the property of persons employed in the Company's investment or manufacture of salt

And sufficient time to be allowed for satisfying the demand in such cases.

But the required notice may be given either to the commercial resident or salt agent; or to the native superintendent of the factory or salt chokee.

150. Whenever any Zemindar, independent Talookdar, or other actual proprietor of land, or any person farming land directly from Government, shall be desirous of distraining the property of his tenant, with a view to the recovery of an arrear of rent; such Zemindar or other person shall either previously or at the time of the distress, serve the said tenant with a written demand for the amount of it, ac-

No process for distress or sale to be legal, unless the tenant shall be served with a written demand, accompanied with a jumma wasil bakee.

companied with a jumma wassil baukee, exhibiting the grounds on which the demand is so made; and no process for the distress and sale of property on account of arrears of rent shall be deemed legal and valid, unless the rule here prescribed shall have been duly observed. In all practicable cases, the prescribed demand and jumma wassil baukee account, shall be served personally on the tenant; but if he abscond or conceal himself, so that they cannot be served personally upon him, they shall be affixed at his usual place of residence; which latter process shall in such case be deemed and taken to be a sufficient service of the demand and account in question.—*Reg.* V. 1812, *Sect.* 13.

Attachment not to take place, if the defaulter shall tender the arrears upon demand.

151. If the defaulter shall tender the arrears demanded of him in the presence of two creditable witnesses to the person deputed to attach his property, such person shall receive the arrears, and shall not proceed to the attachment. —*Reg.* XVII. 1793, *Sect.* 7.

Distress to be levied between sunrise and sunset.

152. All attachments shall be made after sunrise and before sunset. If any person vested with the power of distraint shall seize or attempt to seize the property of any defaulter after sunset and before sunrise for the discharge of arrears of rent or revenue, such distrainer shall not be entitled to recover the arrear; and, if the property shall have been attached, shall be compelled to restore it to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, with all costs of suit.—*Reg.* XVII. 1793, *Sect.* 17.

Penalty for attaching property after sunset and before sunrise.

Transfer of a defaulter's property to prevent distraint invalid.

153. If any Under-farmer, Ryot, or dependant Talookdar, shall make a fraudulent conveyance or transfer of his property to prevent the attachment of it for arrears, the Court of Dewanny Adawlut, upon proof thereof being made before it, shall cause the property to be delivered up to the distrainer, and compel the person to whom such transfer or conveyance shall have been made, to pay to the distrainer damages adequate to the value of one half of the property, with costs of suit.—*Reg.* XVIII. 1793, *Sect.* 18.

Penalty for persons to whom such transfer may be made

Punishment for under-farmers, &c. resisting an attachment, or forcibly or clandestinely taking away their property after it has been attached.

154. If any Under-farmer, Ryot, or dependant Talookdar, shall resist the attachment of his property, or shall forcibly or clandestinely take it away after it shall have been attached, the Court of Dewanny Adawlut shall cause him and all persons who may be proved to have been his aiders or abettors, to be imprisoned in the jail until he shall restore the property to the distrainer, or the arrear shall have been liquidated by the distraint and sale of other property, or otherwise discharged, with the expenses attending the attachment, and costs of suit.—*Reg.* XVII. 1793, *Sect.* 19.

Further penalties for resistance to attachments for arrears of rent, are prescribed by the regulations.

155. In addition to the penalties provided by Section 19, Regulation XVII. 1793, it is hereby declared, that if any under-tenant, of whatever description, shall resist or cause to be resisted the attachment of his property for arrears of rent in the mode prescribed by the Regulations so as to prevent the attachment from taking place, or shall forcibly or clandestinely take away such property after it shall have been attached; such offender shall, on proof before the Dewanny Adawlut, be made liable to damages to the distrainer equal to twice the amount of the property rescued from attachment, and the property so taken away may be re-attached by the distrainer wheresoever it may be found. The offender and all persons concerned with him in resisting the attachment, are moreover declared liable to be apprehended and prosecuted before the Criminal Courts for any breach of the peace committed by them in such resistance to the attachment; and the police officers, on information of such, are immediately to repair to the spot, and take all proper measures under the regulations, as well to apprehend and send to the Magistrate any persons who may appear to have broken the peace, as to support distrainers in the due exercise of the legal powers vested in them. If any person, not being the defaulter or responsible for him, claim as his right the property distrained, and the distrainer shall notwithstanding cause the same to be sold, the claimant, on proof of his right in the Dewanny Adawlut, and in the event of the distrainer being unable to prove that he was responsible for the arrear on account of which the property may have been sold, shall recover from the distrainer the full value of such

Offenders liable to damages equal to twice the amount of the property rescued from attachment.

And property taken away may be re-attached wheresoever found.

Offender and all persons concerned with him also liable to be apprehended and prosecuted for any breach of the peace

Police officers how to act on information given in such cases.

Claims to property distrained and sold, to be preferred in the Dewanny Adawlut.

In what cases judgment, for value of such property with costs and damages, to be given against the distrainer.

property, with all costs and damages, according to the circumstances of the case. But no claim to crops upon the ground or to any gathered product of the ground attached in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall bar the prior claim of rent due for the ground upon which such crop or product may have been grown, it being the undoubted right of the owner of the land, or his representative, to consider the produce of it mortgaged to him, for the rent of the land in the first instance, and in default of his rent being paid as engaged for (or determinable by local rates and usage where there may be no specific engagement) to distrain and sell such part of the product as may be necessary to make good the arrear due to him.—*Reg.* VII. 1799, *Sect.* 9.

But no claim to ground products attached, in possession of defaulter, to bar the prior claim of ground rent.

156. If any person, not being the owner, shall be convicted of forcibly or clandestinely taking away property that has been distrained, the Court of Dewanny Adawlut, upon proof thereof being made before it, shall cause such person or persons to be imprisoned until they restore the property, make good the value of it to the distrainer, and pay to him as damages, a sum equal to the value of such property, and all costs of suit.—*Reg.* XVII. 1793, *Sect.* 20.

Punishment for persons not being the owners forcibly or clandestinely taking away property which has been attached.

SECT. XXXIII.

Search of Houses.

157. Distrainers are empowered to force open any stable, cow-house, barn, golah, granary, or other building, and to enter any dwelling-house, the outer door of which may be open, (excepting the apartments in such dwelling-house, which may be appropriated for the Zenana or residence of women,) and to break open the door of any room in such dwelling-house, for the purpose of attaching any property belonging to a defaulter which may be lodged therein. But nothing contained in this regulation shall be construed to authorize persons vested with the power of distraint, or their servants, or agents, to enter the Zenana, or apartments of women, whether the doors or passages leading thereto be open or not; nor to force open and enter any dwelling-house

What places distrainers may force open to attach the property of defaulters.

Zenana or women's apartments not to be entered whether the doors be open or shut.

Dwelling-houses

the outer door of which may be locked or barred. Persons entering the apartments of women, or forcing open the outer door of any dwelling-house, shall be imprisoned for six months, the distrainer shall not recover the arrear for which the attachment may have been issued, and he shall be compelled to restore to the defaulter any property that may have been attached, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming; and the Court shall further award against such distrainer heavy damages, with all costs of suit. And if any person shall enter a dwelling-house, or break open any stable, cow-house, barn, golah, granary, or other building, not occupied by or in the possession of the defaulter, to distrain property belonging to him, and no such property shall be found therein, the distrainer shall be liable to prosecution by the occupant or possessor for entering such house, or breaking open such stable or other building, and the Court shall award to him damages according to the circumstance of the case, with all costs of suit.—*Reg.* XVII. 1793, *Sect.* 21.

not to be forced open.

Punishment for entering women's apartments or forcing open dwelling-houses.

Penalty for entering any dwelling-house, or breaking open any place not occupied by or in the possession of the defaulter, should no property belonging to him be found therein.

158. The restrictions contained in Section 21, of Regulation XVII. 1793, which prohibit distrainers from forcing open the outer door of any dwelling-house, and from entering the Zenana or apartments of women, having been found liable to abuse, such restrictions are hereby modified as follows. When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which by the usage of the country are considered private, he is at liberty to represent the same to the police Darogah within whose jurisdiction the house may be situated, and on such representation the police Darogah is to send a police officer to the spot, in the presence of whom the distrainer is authorized to force open the outer door of the dwelling-house, in which he may have reason to suppose the defaulter's property to have been lodged, in like manner as he is already authorized to break open the door of any room within a dwelling-house, except the Zenana. He may also, in the presence of the police officer, after due notice given for the removal of any women within the Ze-

Modification of restrictions in Section 21, of Regulation XVII. 1793.

Distrainer, in presence of a police officer, may force open the outer door of a dwelling-house in which he has reason to suppose the defaulter's property to be lodged.

And with certain precautions may enter Zenana apart-

ments to attach property.

nana, and after furnishing means for their removal in a suitable manner, if they be women of rank, who according to the customs of the country cannot appear in public, enter the Zenana apartments for the purpose of attaching any of the defaulter's property deposited therein. But such property, if found, shall be immediately removed from such apartments, after which they are to be left free to the former occupants; and nothing in this Regulation is to be understood to authorize any distrainer or his agent to force open the door of a dwelling-house, or to enter the apartments of women which by the usage of the country are considered private, in any other mode than is herein prescribed; a wilful deviation from which will subject the offender to heavy damages, besides forfeiture of the arrear of rent on account of which the distress may be levied.—*Reg.* VII. 1799, *Sect.* 10.

But such property to be immediately removed; and the apartments left free to occupants

Penalty for forcing open the door of a dwelling-house, or entering the apartments of women considered private, in any other mode than is herein prescribed

Police darogahs on application to depute an officer to be present at attachments for arrears of rent.

159. In all cases wherein persons authorized to distrain property for arrears of rent may apply to the police Darogah of the jurisdiction to depute a police officer to be present at the time of making the attachment, with a view to prevent resistance or other breach of the peace, the police Darogah shall, as far as may be in his power, immediately comply with such applications; and the police officers so deputed shall use every means in their power to prevent resistance or other breach of the peace in such cases. He shall also give due attention to the whole conduct and proceedings of the distrainer, so as to be able to give evidence thereupon, if afterwards required, either before the Judge or Magistrate. —*Reg.* VII. 1799, *Sect.* 11.

Officer so deputed to use every means to prevent resistance or other breach of the peace, and to observe the conduct of distrainers.

SECT. XXXIV.

Property liable to Attachment, and Rules regarding it.

What persons may distrain. Whose and what property is liable to distraint and sale.

160. Zemindars, independent talookdars, and other actual proprietors of land, and farmers of land who hold their farms immediately of Government, are empowered to distrain without sending notice to any Court of justice or any public officer, (excepting the after notice directed to be given in the cases of defaulters employed in the provision of

the Company's investment, or the manufacture of salt as specified in Section 31,) the crops and products of the earth of every description, the grain, cattle, and all other personal property, whether found in the house or on the premises of the defaulter, or in the house or on the premises of any other person within or without the limits of the estate or farm of the distrainer, belonging to their under-renters and ryots, and the talookdars paying revenue through them, for arrears of rent or revenue, and to cause the said property to be sold for the discharge of such arrears. The same powers are likewise vested in dependant talookdars for the recovery of arrears of rent from their under-farmers and ryots, and also in under-farmers who farm lands from Zemindars, independent talookdars, or other actual proprietors of land, or dependant talookdars, or farmers of land who hold their farms immediately of Government, to enable such under-farmers to enforce payment of arrears of rent or revenue from their ryots, under-farmers, or dependant talookdars. The several descriptions of landholders and farmers of land above specified are to exercise the powers hereby vested in them under the following rules and restrictions:—*Reg.* XVII. 1793, *Sect.* 2.

Further penalties for resistance to attachments for arrears of rent, as prescribed by the regulations.

161. In addition to the penalties provided by Section 19, Regulation XVII. 1793, (Par. 154,) it is hereby declared, that if any under-tenant, of whatever description, shall resist or cause to be resisted the attachment of his property for arrears of rent in the mode prescribed by the Regulations so as to prevent the attachment from taking place, or shall forcibly or clandestinely take away such property after it shall have been attached; such offender shall, on proof before the Dewanny Adawlut, be made liable to damages to the distrainer equal to twice the amount of the property rescued from attachment, and the property so taken away may be attached by the distrainer wheresoever it may be found. The offender and all persons concerned with him in resisting the attachment, are moreover declared liable to be apprehended, and prosecuted before the Criminal Courts for any breach of the peace committed by them in such resistance to the attachment; and the police officers, on information of such, are

Offenders liable to damages equal to twice the amount of the property rescued from attachment.

And property taken away may be re-attached wheresoever found.

Offender and all persons concerned with him also liable to be apprehended and prosecuted for any breach of the peace.

Police officers how to act on information given in such cases.

immediately to repair to the spot, and take all proper measures under the Regulations, as well to apprehend and send to the Magistrate any persons who may appear to have broken the peace, as to support distrainers in the due exercise of the legal powers vested in them. If any person, not being the defaulter or responsible for him, claim as his right the property distrained, and the distrainer shall notwithstanding cause the same to be sold, the claimant, on proof of his right in the Dewanny Adawlut, and in the event of the distrainer being unable to prove that he was responsible for the arrear on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with all costs and damages, according to the circumstances of the case. But no claim to crops upon the ground or to any gathered product of the ground attached in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall bar the prior claim of rent due for the ground upon which such crop or product may have been grown, it being the undoubted right of the owner of the land, or his representative, to consider the produce of it mortgaged to him, for the rent of the land in the first instance, and in default of his rent being paid as engaged for (or determinable by local rites and usage where there may be no specific engagement) to distrain and sell such part of the product as may be necessary to make good the arrear due to him.—*Reg.* VII. 1799, *Sect.* 9.

Claims to property distrained and sold, to be preferred in the Dewanny Adawlut.

In what cases judgment, for value of such property, with costs and damages, to be given against the distrainer.

But no claim to ground products attached, in possession of defaulter, to bar the prior claim of ground rent.

What property is not liable to distraint and sale.

162. Persons vested with the power of distraint shall not distrain or sell the lands, houses, or other real property of their under-farmers and ryots, or the talookdars paying revenue through them; nor goods or advances belonging to the Company in the hands of any weaver, manufacturer, or other persons employed in the provision of their investment; nor the loom, thread, unwrought silk, or materials of manufacture of any weaver or manufacturer; nor the tools of any tradesman or labourer standing towards them in the relation of under-farmer, ryot, or dependant talookdar. All such distraints and sales are declared illegal and void. The defaulter shall stand acquitted of the arrear for which the distress may be levied, and the property shall be restored to

Distraint and sale of it illegal and void.

Penalty

him, or the distrainer shall be compelled to make good to him the value of it, if it shall be personal property, and shall have been destroyed, damaged, or injured, or shall not be forthcoming; and the distrainer shall be further obliged to pay to him damages adequate to the loss which he may prove to have sustained, in consequence of such attachment or sale, with all costs of suit.—*Reg.* XVII. 1793, *Sect.* 3.

Ploughs, &c. and cattle employed in agriculture, not to be distrained or sold.

163. Ploughs and other implements of husbandry, bullocks, and other cattle employed in agriculture, together with the tools of artisans, shall not be subject to distress and sale on account of arrears of rent, although the tenant, from whom such arrears may be demanded, shall not possess other property sufficient to make good the arrear.—*Reg.* V. 1812, *Sect.* 14.

What property is not to be distrained if other sufficient property can be attached.

164. The ploughs and implements of husbandry, the cattle actually trained to the plough, and the seed grain of under-farmers, ryots, and dependant talookdars, shall not be distrained for arrears, provided the defaulter shall possess, and the distrainer shall have it in his power to attach, other cattle, grain, or property sufficient for the discharge of the arrear. Distrainers are enjoined to attend strictly to this rule and every deviation from it shall be punished by an award to the party aggrieved of damages adequate to the injury he may have sustained, with all costs of suit.—*Reg.* XVII. 1793, *Sect.* 4.

Penalty.

Rules for the recovery of arrears of rent from weavers in the Company's employ.

165. To prevent unnecessary interruption to the provision of the investment, and at the same time that weavers and other persons employed in the provision of it, may not withhold the rent justly due from them for land which they may rent or cultivate, the following rules are prescribed:—*Reg.* XXXI. 1793, *Sect.* 9, *Cl.* 1.

Weavers, &c. in the Company's employ not to be summoned by any native concerned in the collections of the rents or revenue of lands.

166. No Weaver, or other manufacturer, Gomastah, or other officer or person employed in the provision of the Company's investment, shall be summoned to the cutcherry of any proprietor, or farmer of land, or any native holding or entrusted with the collection of the rents or revenue of

lands, under any pretence whatever. If any such persons shall have claims on such weavers, manufacturers, gomastahs, or officer, for or relating to arrears of rent, they shall either distrain for the amount under Regulation XVII. 1793, or sue the defaulter for it in the Dewanny Adawlut, or state their claim in writing to the Commercial Resident, who if the weaver, or other person, be then actually employed by the Company, may, if he shall deem it expedient so to do, cause him to satisfy the claim, or satisfy it himself, and stop the amount by kistbundy from his future advances, so that his labour on account of the Company's investment may not be interrupted. But the cloth, thread, or advances belonging to the Company in the hands of such weaver or other person shall in no case be liable for such demand, but shall be restored to the Resident.—*Reg.* XXXI. 1793, *Sect.* 9, *Cl.* 1.

But to prevent interruption to the salt manufacture, and to secure the payment of rents,

167. To prevent unnecessary interruption to the manufacture, and at the same time that persons employed in it, may not withhold the rents justly due from them for lands which they may rent, or cultivate, the following rules are prescribed:—*Reg.* X. 1819, *Sect.* 20, *Cl.* 1.

Certain rules enacted

168. From the beginning of Kautic to the end of Assar, no person under engagements, and employed in the salt manufacture shall be liable to be arrested for a demand of rent, nor to be summoned to the cutcherry of any proprietor, or farmer of land, or any person holding, or entrusted with the collection of the rents, or revenue of lands, or the management thereof, under any pretence whatever. If any such proprietors, farmers, or other persons aforesaid, shall have a claim for, or relating to rent on any persons so engaged, and employed, and shall be desirous of enforcing it during the period above-mentioned, they shall either distrain for the amount, under the existing Regulations for levying distress for the recovery of arrears of land rent, or sue the stated defaulter for it in the Dewanny Adawlut, or state their claim in writing to the Agent, who, if he shall deem it expedient so to do, shall cause the stated defaulter to satisfy it himself and stop the amount by kistbundy from his future advances

so that his labour on account of the manufacture may not be interrupted. If the claimant shall prefer applying in the first instance to the Agent, and he shall not afford satisfaction for the claim, the claimant must distrain or commence a civil prosecution as above-pointed out. But the salt advances, or implements belonging to the Company in the hands of the defaulter, shall not be held liable for the claim, nor shall they under any pretence whatsoever, be distrained, seized, sold or otherwise disposed of by the claimant, or by the Court, in satisfaction of his demand.—*Reg.* X. 1819, *Sect.* 20, *Cl.* 2.

Distrained crops and ungathered products of the earth when to be reaped or gathered, and where to be stored.

169. Distrainers who shall attach the crops or any ungathered products of the earth belonging to their under-farmers, ryots, or the talookdars paying revenue through them, shall cause such crops or products to be reaped or gathered in due season, and store the same in proper houses, barns, or granaries upon the premises; or, if there shall be no such places on the premises, in any barn or proper place which can be procured as near thereto as possible within the limits of the pergunnah. The expense of reaping or gathering and storing such crops or products shall be paid by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.—*Reg.* XVII. 1793, *Sect.* 13.

Property distrained not to be taken out of the pergunnah

Where to be kept.

170. Distrainers shall not drive or convey distrained cattle or other property out of the limits of the pergunnah in which it may have been attached. The distrainer shall either leave the property upon the premises in the charge of any person he may think proper, or drive or convey it with due care to a proper place as near as possible to the premises, within the limits of the pergunnah.—*Reg.* XVII. 1793, *Sect.* 12.

Distrained cattle not to be worked, nor goods or effects used.

Distrainers to provide food for

171. Distrainers shall not work the bullocks or cattle or make use of the goods or effects distrained. They shall provide the necessary food for the cattle or live stock, the expense attending which shall be paid by the owner upon

cattle or live stock. Expense how to be defrayed.

his redeeming the property, or from the proceeds of the sale, in the event of its being sold.—*Reg.* XVII. 1793, *Sect.* 14.

Penalty for distrainers neglecting to take due care of the property distrained.

172. If property distrained shall be stolen, or lost, or be damaged, injured, or destroyed by the weather or otherwise, whilst in the possession of the distrainer, owing to his not having taken the necessary precautions for the due keeping and preservation of it, he shall make good the loss or damage to the owner.—*Reg.* XVII. 1793, *Sect.* 15.

Distress to be proportionate to the arrear.

Penalty for excessive distress.

173. The distress levied shall not be excessive, or in other words, the property seized shall be as nearly as possible proportionate to the amount of the arrear. If any person vested with the power of distraint shall attach any property the value of which shall be disproportionate to the arrear, and it shall be proved that he could have seized other property of less value, and which would have been sufficient for the liquidation of such arrear, the Court of Dewanny Adawlut shall award to the owner damages according to the circumstances of the case, with all costs of suit.—*Reg.* XVII. 1793, *Sect.* 16.

SECT. XXXV.

Duties of the Moonsiff or Distrainer.

174. [Vide Par. 149, which defines the duties of Moonsiff or distrainer.]

Rules regarding the sale of distrained property.

175. After the expiration of the fifth day, and before the elapse of the eighth day, calculating from the day following the day on which the attachment of the property of a defaulter shall have taken place, or, if the property attached shall consist of crops, or other ungathered products of the earth, after the elapse of the fifth day, and before the expiration of the eighth day, commencing from the day following the day on which such crops or products may have been stored as directed in Section 13, Regulation XVII. 1793, (Par. 169,) the distrainer shall apply to the Cauzy of the pergunnah to have the same appraised and sold. Upon the receipt of such application, the Cauzy shall proceed as follows. He shall fix upon

Distrainer to apply to the cauzy of the pergunnah to sell the property.

Acts to be done

the outer door of his own house, and at the place at which he may determine to dispose of the property, a list of the property attached, with a notice, which shall specify, Firstly, the place at which the property is to be sold, which shall be on the spot where it may be lodged by the distrainer, or at the nearest gunje, bazar, or haut, or any place of public resort where the Cauzy may be of opinion it is likely to sell to the best advantage; secondly, the day on which it is to be sold, which shall be the fifteenth day, commencing from the day following the day on which the attachment may take place, unless the property shall consist of crops or other ungathered products of the earth, in which case the sale shall be made on the fifteenth day calculating from the day following the day on which such crops or products may be stored as directed in Section 13, Regulation XVII. 1793; and thirdly, the time of the day when the sale is to be made, which shall be during the hours of business, when the greatest number of people may be supposed to assemble. The Cauzy shall nominate two creditable persons, competent by their profession, trade, or occupation, to appraise the property. The persons so appointed, shall appraise the property according to the current price which the several articles may then bear in the country, and shall deliver the particulars of the appraisement in writing, and attest the same with their signatures, and shall certify in writing at the foot of the paper, that they have appraised the property according to the best of their knowledge and judgment. The Cauzy shall affix his seal to the paper of appraisement, and cause it to be stuck up on the outer door of his own house, and at the place where the property is to be sold. The property shall be brought to the place of sale on the morning of the day of sale, in order that it may be examined by the persons intending to bid, unless it shall consist of grain or other products of the earth, the removal of which would be attended with considerable expense, in which case samples only indiscriminately taken from each article, shall be brought to the place of sale, and exposed for the purpose above-mentioned. The property shall be put up to sale in one lot, or in two or more lots, as the Cauzy may think advisable. The property shall be disposed of for the highest price that

by the cauzy on receipt of the application, viz.

to publish at the places herein specified, a list of the property;

the place of sale;

the day of sale;

the hour of the day when the sale is to be made;

to appoint appraisers to value the property;

to fix up the paper of appraisement at the places herein specified;

to cause the property or samples of it to be brought and exposed at the place of sale;

to put up the property to sale in one, or two, or more lots;

to dispose of the

property to the highest bidder; to return any overplus in the proceeds to the defaulter; to sell further property for any deficiency;

may be offered for it. If the property shall sell for more than the amount of the arrear, the overplus, after deducting the charges attending the attachment and sale of it shall be returned to the defaulter. If the proceeds of the sale shall be insufficient for the discharge of the arrear, and the expenses attending the attachment and sale, the distrainer shall be at liberty to attach other property belonging to the defaulter, and to cause it to be sold to make good the deficiency. The cauzy is in every case to examine the distrainer's statement of the expenses consequent to the attachment and sale of the property, and to reject any part of it that may appear to him unreasonable. If any person vested with the power of distraint, shall sell or dispose of property which he may have attached for arrears of rent or revenue, in any other mode than that prescribed in this Section, he shall forfeit the arrear for which the distress may be levied to the defaulter, and make good to him the value of the property sold or disposed of, with all costs of suit.—*Reg.* XXXV. 1795, *Sect.* 5.

and to examine and check the distrainer's statement of expenses attending the attachment and sale.

Penalty for distrainers disposing of distrained property in any manner excepting that herein directed

Attachment to be withdrawn, and distrained property restored, should a tenant who may not have given security, dispute the demand and enter into a bond with security, binding himself to institute a suit within fifteen days.

176. If an attachment for arrears shall have been issued against the property of any tenant of any description, whether denominated under-farmer, ryot, or dependent talookdar, who may not have given security for the payment of his rent or revenue, and such tenant shall dispute the justness of the demand, and shall within five days, reckoning from the day following the attachment, or if the property attached, consist of crops, or other ungathered products of the earth, within five days, calculating from the day following the date on which such crops or products may be stored, enter into a bond before the Judge or Collector of the Zillah, the Cauzy of the pergunnah, the Commissioner, or other person vested with power to sell distrained property, or before the distrainer himself, with good security, binding himself to institute a suit in the Dewanny Adawlut of the Zillah within fifteen days from the date of such bond, for the trial of the demand, and to pay whatever sum may be adjudged to be due from him, with interest upon it at the rate of twelve per cent. per annum, to be calculated from the date on which the arrear that may be awarded became payable

to the date of the decree, with all costs of suit, the distrainer shall immediately withdraw the attachment, and restore the property to the defaulter. If the stated defaulter shall fail to execute the bond within the period prescribed, the distrainer shall be at liberty to keep the property under attachment, and to cause it to be sold in the manner hereafter directed, unless the arrear, with the expenses of the attachment, shall be discharged previously to the day of sale. If the defaulter shall execute the bond, but omit to institute the suit in the Dewanny Adawlut, within the time prescribed, the distrainer shall demand payment of the arrear from the surety; and in the event of his not discharging the amount immediately, the distrainer shall be at liberty to issue an attachment against the personal property both of the surety and the defaulter, or the personal property of either of them, excepting always the articles specified in Section 14, (Par. 163,) of this Regulation, and to cause it to be sold, unless the arrear and the expenses of the attachment shall be discharged previously to the day of sale.—*Reg.* V. 1812, *Sect.* 15.

Attachment shall continue, and the property be sold, should the tenant fail to execute such bond or pay the arrears.

Should he execute the bond, but fail to institute a suit his security may be proceeded against.

177. If an attachment for arrears shall have been issued against any tenant, who may have given security for the payment of his rent or revenue, and such tenant shall dispute the justness of the demand, and the surety within five days, reckoning from the day following the day of the attachment, or if the property attached shall consist of crops or other ungathered products of the earth, within five days, calculating from the day following the date on which such crops or products may be stored, shall deliver a writing, attested by two witnesses, to the Judge of the Dewanny Adawlut, the Collector of the district, the Cauzy of the pergunnah, the Commissioner or other person vested with power to sell distrained property, or to the distrainer himself, engaging that either he or the stated defaulter will institute a suit in the Dewanny Adawlut within fifteen days from the date of such writing, to try the demand, and to pay the amount that may be adjudged against them, with interest upon it at the rate of twelve per cent. per annum, to be calculated from the date on which the arrear that may be

Under what rules attachment shall be withdrawn in the case of tenants who have given security disputing the justness of the demand.

awarded, became payable, to the date of the decree, with all costs of suit, the distrainer shall immediately withdraw the attachment, if the surety shall fail to execute such writing within the prescribed period, the distrainer shall continue the property under attachment, and cause it to be sold in the manner hereafter directed, unless the arrear and the expenses attending the attachment shall be discharged previously to the day of sale. If the surety shall execute the writing, but fail to have the suit instituted either in his own name, or that of the defaulter, within the above-mentioned period of fifteen days, the distrainer shall demand payment of the arrears from the surety, and in the event of his omitting to discharge the amount immediately, the distrainer shall be at liberty to issue an attachment against the personal property both of the surety and the defaulter, or the personal property of either of them, excepting always the articles specified in Section 14, of this Regulation, and to cause it to be sold in the manner hereafter directed ; unless the arrears and the expense attending the attachment shall be discharged before the day of sale. If the surety of the stated defaulter shall refuse or omit to enter into the writing required, or if he shall happen to be at a distance, so as to render it impossible for him to execute such writing within the prescribed time, and such defaulter in either of these cases shall give the security required from the defaulters, specified in Section 15, of this Regulation, (Par. 176,) the distrainer shall withdraw the attachment; and the rules contained in the foregoing Section, shall in every respect be considered applicable to the parties concerned.—*Reg.* V. 1812, *Sect.* 16.

Property to continue under attachment should the surety fail to execute the necessary writing.

Should the surety fail to have a suit instituted, the distrainer may attach both his and the defaulter's property.

The rules contained in Section XVI. declared to be applicable, should the required writing not be executed by the surety, and the defaulter himself give the required security.

178. Should any Ryot, Farmer, or dependant Talookdar whose property may have been distrained, be unable to give security to the amount of the demand, together with interest upon it, at the rate of one Rupee per mensem, with cost of suit and expenses of attachment, he will of course be at liberty to institute a suit against the distrainer in the Dewanny Adawlut, to try the demand, and for the recovery of damages on account of any injury which he may have sustained by the illicit sale of his property.—*Reg.* V. 1812, *Sect.* 17.

Persons unable to give sufficient security may institute a suit in the court to try the demand or recover damages.

Explanatory rule respecting defaulters employed in the provision of the investment, or the manufacture of salt.

179. The several descriptions of landholders and farmers of land, specified in Section 2, are empowered under the restrictions contained in this Regulation, to attach and sell the property of persons employed in the provision of the Company's investment, or the manufacture of salt, for the recovery of arrears of rent or revenue, without previously stating the claim to the Company's commercial representative, or to any salt agent, or other officer employed in the salt department. But such distrainers shall within three days, calculating from the day following the day of the attachment, after they shall have attached the property of any weaver or molungee, or other person employed in the provision of the Company's investment, or the manufacture of salt, send information of such attachment in writing to the commercial resident or salt agent, or the nearest commercial factory or salt cutcherry, that the commercial resident or salt agent may satisfy the demand previous to the time fixed for the sale of the property, or cause such steps to be taken in behalf of the defaulter as may be consistent with this Regulation.—*Reg.* XVII. 1793, *Sect.* 31.

Distrained property to be appraised previously to sale, and a certificate furnished to the defaulter.

180. Whenever property shall have been distrained with a view to the sale of it, for the recovery of arrears of rent, it shall be appraised previously to such sale, by persons conversant with the purchase and sale of articles of the quality and description of those so distrained, and a certificate of the appraisement shall be furnished by the appraisers under their signatures, which shall be communicated to the tenant at least three days before the sale.—*Reg.* V. 1812, *Sect.* 18.

Attachment to be withdrawn, if the defaulter shall tender the arrear and expenses of attachment previous to the day of sale.

181. If the defaulter shall tender payment of the arrear demanded of him in the presence of two creditable witnesses after his property shall have been attached, and prior to the day fixed for its being put up to sale, and also of the necessary expenses attending the attachment, the distrainer shall receive the amount of such arrear and expenses, immediately upon the same being tendered, and shall forthwith release the property. In case of any dispute arising respecting the expenses of the attachment, it shall be determined by the Cauzy of the pergunnah in which the distress may have

Penalty.

been levied. The Courts of Dewanny Adawlut are, upon complaint made to them, to punish any distrainer who may act contrary to this Regulation, by awarding against him in favour of the party injured, damages according to the circumstances of the case, with all costs of suit.—*Reg.* XVII. 1793, *Sect.* 11.

SECT. XXXVI.

Rules of Sale.

Mode of appraising and selling distrained property.

182. After the expiration of the fifth day, and before the elapse of the eighth day, calculating from the day following the day on which the attachment of the property of a defaulter shall have taken place, or, if the property attached shall consist of crops or other ungathered products of the earth, after the elapse of the fifth day, and before the expiration of the eighth day, commencing from the day following the day on which such crops or products were stored as directed in Section 13, the distrainer shall apply to the Cauzy of the pergunnah to have the same appraised and sold. Upon the receipt of such application, the Cauzy shall immediately fix up in the head cutcherry of the pergunnah a list of the property attached, with a notice of the day on which it will be sold, which shall be the fifteenth day, commencing from the day following the day on which the attachment took place, unless the property shall consist of crops or other ungathered products of the earth, in which case the sale shall be made on the fifteenth day, calculating from the day following the day on which such crops or products may be stored as directed in Section 13. The Cauzy shall nominate two creditable persons, competent by their profession, trade, or occupation to appraise the property. The persons so appointed shall appraise the property according to the current price which the several articles may then bear in the country, and shall deliver the particulars of the appraisement in writing, and attest the same with their seals and signatures, and shall make oath before the Cauzy that they have appraised the property according to the best of their knowledge and judgment. The Cauzy shall affix his seal to the paper of appraisement, and shall cause it to be stuck up in the cutcherry. The property shall be brought to the

cutcherry on the morning of the day of sale, in order that it may be examined by the persons intending to bid, unless it shall consist of grain or other products of the earth, the removal of which would be attended with considerable expense, in which case samples only indiscriminately taken from each article shall be brought to the cutcherry and exposed for the purpose above-mentioned. The property shall be put up to sale in one lot, or in two or more lots as the Cauzy may think advisable. The sale shall commence at twelve o'clock in the day, and the property shall be disposed of for the highest price that may be offered for it. If the property shall sell for more than the amount of the arrear, the overplus, after deducting the charges attending the attachment and sale of it, shall be returned to the defaulter. If the proceeds of the sale shall be insufficient for the discharge of the arrear and the expenses attending the attachment and sale, the distrainer shall be at liberty to attach other property belonging to the defaulter, and to cause it to be sold to make good the deficiency. The Cauzy is in every case to examine the distrainer's statement of the expenses consequent to the attachment and sale of the property, and to reject any part of it that may appear to him unreasonable. If any person vested with the power of distraint shall sell or dispose of property which he may have attached for arrears of rent or revenue in any other mode than that prescribed in this Section, he shall forfeit the arrear for which the distress may be levied to the defaulter, and make good to him the value of the property sold or disposed of, with all costs of suit.—*Reg.* XVII. 1793, *Sect.* 22.

Surplus of the proceeds of property selling for more than the arrear and expenses, how to be appropriated.

Cauzy to adjust the expenses of the sale and attachment Penalty for disposing of property except as herein authorized.

183. If at the time of sale, a price shall not be offered for the distrained property equal to its appraised value, the sale shall be postponed until the ensuing market day, when the property shall be actually sold, whatever price (not less than the amount bidden on the first day of sale) may be offered for it.—*Reg.* V. 1812, *Sect.* 19.

Sale to be postponed should the price offered be less than the appraised value.

184. As a compensation to the cauzies and other public officers empowered to dispose of property under distraint, both for their personal trouble, and for the expense they

Commission to be drawn by officers authorized to sell distrained property if the sale

take place, but not otherwise.

may incur in publishing and making such sales, as well as in causing the attached property to be appraised as directed by Section 5, of Regulation XXXV. 1795, (Par. 175,) they shall draw a commission of one anna in the rupee on the amount sales of the property sold by them; to be deducted from the proceeds, and charged to the account of the defaulter, with the other expenses attending the attachment. But no such commission shall be drawn, nor any charge made to the defaulter beyond expenses actually and necessarily incurred, in the event of the sale being stopped by this discharge of the arrear due from him, or otherwise. It is expected that this allowance to the officers entrusted with the sale of distrained property, will ensure the faithful discharge of the trust reposed in them; and any collusion with the defaulter, distrainer, or purchaser, or other misconduct in the execution of the duty committed to them, will render them liable to immediate dismission from their offices in the mode provided by the Regulations, besides subjecting them to the other penalties therein specified, and full damages to the party injured.—*Reg.* VII. 1799, *Sect.* 5.

Faithful discharge of trust expected in consequence of such allowance.

Punishment of collusion or other misconduct.

Distrainer, cauzy, and appraisers, not to purchase the property.

185. The distrainer, the cauzy and the appraisers, are prohibited purchasing directly or indirectly any part of the property. Any cauzy or appraiser offending against this prohibition, shall be compelled to restore the property to the defaulter, or the full value of it in the event of its being injured, damaged, destroyed, or not forthcoming, and shall forfeit the purchase money, which shall be appropriated to the liquidation of the arrear, and pay all costs of suit; and the Court shall report the circumstances to the Sudder Dewanny Adawlut, for the information of the Governor General in Council, who, if there shall appear to him sufficient ground for so doing shall dismiss such cauzy from his office. Distrainers acting contrary to the prohibition contained in this Section shall be compelled to restore the property to the defaulter, or the full value of it. If it shall have been injured, damaged, or destroyed, or shall not be forthcoming, and shall likewise forfeit to him the arrear for which the property may have been attached, and pay all costs of suit.—*Reg.* XVII. 1793, *Sect.* 24.

Penalty.

Defaulters not to bid for or purchase their property.

186. Neither the defaulter, nor any person on his behalf shall be permitted to bid for or purchase the property.—*Reg.* XVII. 1793, *Sect.* 25.

New rule regarding the payment of the purchase money for distrained property.

187. The property shall be paid for in ready money at the time of the sale, and the purchaser shall not be permitted to carry away any part of the property which shall not have been paid for. Should the purchaser fail in the payment of the whole or part of the purchase money within five days, calculating from the day following the sale, the whole of the property, or the part of it which may be unpaid for, shall be resold by the Cauzy on such day as he shall fix, for the best price that may be offered for it. The defaulting purchaser shall forfeit to the distrainer ten per cent. on the amount of the price at which he shall have purchased the property so resold, and make good to him any loss that may arise, as well as the expenses that may be incurred, on the resale. If any profit shall accrue on the resale, it shall be carried to the credit of the defaulter.—*Reg.* XXXV. 1795, *Sect.* 7.

Punishment for cauzies conniving at unfair practices in the appraisement or sale of property.

188. The Cauzy is to be careful to prevent any unfair practices either in the appraisement or sale of property. Upon proof being made before the Court of Dewanny Adawlut of the Zillah of his conniving at any such practices, the Court shall cause him to make good any loss or injury that the defaulter may have thereby sustained, with costs of suit; and shall immediately report the circumstances of the case to the Sudder Dewanny Adawlut for the information of the Governor General in Council, who, provided there shall appear to him sufficient reason for so doing, shall dismiss such Cauzy from his office.—*Reg.* XVII. 1793, *Sect.* 23.

SECT. XXXVII.

Arrest of Defaulters.

Any landholder or farmer to whom an arrear of rent may be due from an under tenant which cannot be realized by distress, may

189. Any zemindar, talookdar, or proprietor, or farmer of land, to whom an arrear of rent may be due from a dependant talookdar, kutkinadar, jotedar, or other under-tenant of whatever denomination, which cannot be realized

cause the arrest of the defaulter and his surety in the manner following:

by distraining the personal property of such under-tenant, and his surety (if he shall have given security), is at liberty, after demanding such arrear from the defaulter, and from his surety if forthcoming, or without any express demand if he have reason to believe that the defaulter or his surety is prepared to abscond, to cause the immediate arrest of such defaulter and his surety in the manner following:—*Reg.* VII. 1799, *Sect.* 15, *Cl.* 1.

Petition to be presented to the Judge of the Dewanny Adawlut or native commissioner appointed under Regulation XL. 1793.

190. The proprietor or farmer to whom the arrear may be due or his authorized agent, is at liberty to present a petition to the Judge of the Zillah Dewanny Adawlut, or in cases wherein there may be reason to apprehend the immediate elopement of the defaulter or his surety, to the native commissioner appointed under Regulation XL. 1793,

What such petition is to contain

within whole jurisdiction the party may reside, setting forth in specific terms the arrear due from the defaulter, and praying that he and his surety (in case he shall have given security) may be taken into custody, unless the amount be

Native commissioners how to proceed on receipt of such petition.

paid. On the receipt of a petition to this effect by a native commissioner appointed under Regulation XL. 1793, he shall, if the defaulter and his surety, or either of them be within his jurisdiction, immediately cause such party to be arrested, and unless immediate payment be made of the arrear demanded, shall within twenty-four hours, cause him

And Judge how to proceed on the party arrested by a native commissioner being brought before him.

to be conveyed to the Judge of the Zillah Dewanny Adawlut; who shall proceed thereupon in like manner as he is hereafter directed to do in the event of the petition having been presented to him, and of the party having been arrested by his immediate order. But no native commissioner

No Commissioner to detain a defaultor or surety in custody without sending him to the Judge, above twenty-four hours.

shall detain any defaulter or surety in custody, without sending him to the Judge, above twenty-four hours, under penalty of being dismissed from his office, and made liable to prosecution for false imprisonment, unless the party in arrest shall, by a written application, desire the same for the purpose of adjusting his arrear with the party who caused his arrest, and the latter shall assent thereto; in which case his written acquiescence is to be superscribed or endorsed on the application with his signature; and to be written in such specific terms as may leave no doubt of the time for

Except by desire of the parties and under a written assent to stay process.

which such assent to stay process is given.—*Reg.* VII. 1799, *Sect.* 15, *Cl.* 2.

What such petition is to contain.

191. The petition of arrest, to be presented under the above clause, as well as any petitions for the arrest of defaulting under-tenants or their sureties, which may be hereafter presented under the Regulations above-mentioned; shall specify, besides the name and residence of the defaulter and surety, and the mehal for which the balance of rent is claimed, the annual jumma of such mehal; the amount demandable for the kists of the current year which may have become payable, the amount received from the tenant or his surety, and the balance actually due for the payment of which the arrest is desired. The petition shall also state whether the arrear claimed has been demanded from the defaulter or his surety, and the result.—*Reg.* XIX. 1817, *Sect.* 15, *Cl.* 2.

SECT. XXXVIII.

Remuneration of Moonsiffs.

Moonsiffs henceforward not to be paid by fees.

192. Such parts of Regulation XXIII. 1814, and of Regulation II. 1821, or of any other Regulations in force as authorized Moonsiffs to receive, as a compensation for their trouble in the trial of suits, the amount of the institution fee, or stamp duty substituted for such fee, are rescinded; and shall have no operation in the Zillah or City to which this Regulation may be extended from the date on which it may be directed to have effect in such Zillah or City.—*Reg.* V. 1831, *Sect.* 12, *Cl.* 1.

Their monthly allowances will be fixed by the Governor General in Council.

193. From the date on which this Regulation shall be directed to take effect in any Zillah or City, the Moonsiffs shall, in lieu of the fees and compensation above-mentioned, receive from Government such monthly allowances as may be fixed by the order of the Governor General in Council.—*Reg.* V. 1831, *Sect.* 12, *Cl.* 2.

SECT. XXXIX.

Authority of Moonsiffs to decide Claims for the Arrears of Rent, &c.

Moonsiffs appointed under Regulation V. 1831, declared competent to award damages in cases of illegal distraint or attachment.

194. In those districts in which Moonsiffs may be appointed under the provisions of Regulation V. 1831, those Moonsiffs shall be competent, in addition to the authority now possessed by Moonsiffs generally, of receiving, trying, and deciding claims to arrears of Rent preferred by regular suit, in like manner to dispose of all claims preferred by under-tenants or others, who may be desirous of resisting the distraint of their property or the attachment of their persons; or who may prefer a claim for damages on account of such acts.—

Rules prohibiting award of damages by Moonsiffs, declared inapplicable to such cases.

The rule contained in Section 13, Regulation XXIII. 1814, or any other Regulation, prohibiting the award of damages by Moonsiffs, shall not be considered applicable to such claims.—*Reg.* VIII. 1831, *Sect.* 11.

CHAPTER II.

Sudder Ameens.

SECT. I.

Appointment of Sudder Ameens.

Rules regarding the nomination of Sudder Ameens.

1. The Zillah and City Judges, in conjunction with the Commissioners of Revenue and Circuit, shall revise the present establishment of Sudder Ameens in the Zillahs and Cities to which this Regulation may be extended—and the selection and number of these officers, as well as of the Moonsiffs, shall be regulated in future in such manner as the Governor General in Council may be pleased to direct, the office being open to Natives of India of any class or religious persuasion.—*Reg.* V. 1831, *Sect.* 13.

Section 62, Regulation XXIII. 1814, rescinded.

2. Section 62, Regulation XXIII. 1814, is rescinded.—*Reg.* V. 1831, *Sect.* 14, *Cl.* 1.

Mahomedan and Hindoo Law Officers not necessarily Sudder Ameens.

3. The Mahomedan and Hindoo Law Officers of the Zillah and City Courts, shall not be deemed Sudder Ameens ex-officio, but shall be eligible to the office like other individuals.—*Reg.* V. 1831, *Sect.* 14, *Cl.* 2.

The Fiscal to be also a Sudder Ameen, with civil and criminal powers.

4. The Fiscal, or Dutch Law Officer, shall moreover, by virtue of his office, be deemed a Sudder Ameen with the full powers vested in Judicial Officers of that description by Regulations II. and III. 1821, within the town and settlement of Chinsurah; in this capacity he shall be employed in the trial and decision of any suits, or cases, Civil or Criminal, that may, under the general Regulations, be referred to him, as Sudder Ameen, by the Zillah Judge, or Magistrate, respectively; and shall be governed in the trial and decision of such cases by the Rules and Regulations which are or may be

in force for the guidance of Sudder Ameens.—*Reg.* XVIII. 1825, *Sect.* 9, *Cl.* 4.

When a vacancy may occur in the office of Moonsiff, the Judge to nominate a successor.

5. Upon the death, removal, or resignation of any Moonsiff, the Judge shall, if necessary, immediately nominate another person in his room for the approbation of the Provincial Court, and shall cause all papers in the causes depending before the late Moonsiff to be delivered over to his successor, or otherwise to be disposed of as circumstances may require.—*Reg.* XXIII. 1814, *Sect.* 48.

[This rule is declared applicable to Sudder Ameens by Section 73, of that Regulation.]

Judges to report to the Provincial Courts the qualifications of persons whom they may recommend for the office of Sudder Ameen.

6. In the future nomination of individuals for the office of Sudder Ameen, the Zillah and City Judges are not restricted to persons of any particular class or religious persuasion, but are required carefully to select such individuals, as may be best qualified for the trust, and to communicate to the Provincial Court full information regarding the native country, age, education, capacity, character, and past employments of the individuals whom they may recommend.—*Reg.* XXIII. 1814, *Sect.* 64.

Former Sunnuds granted to Sudder Ameens to be recalled and new Sunnuds in a prescribed form to be furnished to them.

7. The commissions or sunnuds of appointment, which may have been granted to persons holding the office of Sudder Ameen shall be recalled and cancelled, and in lieu thereof new sunnuds shall be granted to them under the seal and signature of the Judge drawn up according to the form prescribed in the Appendix No. 7.—*Reg.* XXIII. 1814, *Sect.* 65, *Cl.* 1.

Form of Sunnud to be granted to persons appointed to the Office of Sudder Ameen.

"I, A. B. Judge of the Zillah or City of in virtue of the powers vested in me by Regulation XXIII. 1814, do hereby appoint you C. D. to the office of Sudder Ameen of the Zillah or City of You are to hold your cutcherry at and are to affix this Sunnud, or a copy of it, duly authenticated, in some conspicuous place in the cutcherry. You will receive the remuneration to which you may be entitled for the trial

and decision of suits from the Zillah or City Court; and you are not entitled to receive any institution or other fee, any deposit or sum of money or valuable consideration from any parties or other persons on account of the institution or trial, the proceedings, process, or decision of any suits before you. You are not empowered to take or demand any security, to levy any fine or to execute any decree without the previous sanction and orders of the Zillah or City Court in each instance. You are to hear and determine all suits cognizable by you, and to execute all other duties entrusted to you in your capacity of Sudder Ameen, in strict conformity with the rules prescribed in the Regulations now in force, or which may hereafter be enacted.—*App. to Reg.* XXIII. 1814, *No.* 7.

Form of oath to be taken and subscribed by Sudder Ameens who may be hereafter appointed.

8. Every person who may in future be appointed to the office of Sudder Ameen, shall previously to entering upon the execution of the duties of his situation, take and subscribe an oath according to the form prescribed in the Appendix No. 8, before the Judge of the Zillah or City in which he may be appointed to officiate; but the Judge is empowered in all cases, in which he may deem it expedient, to exempt such Sudder Ameen from taking the oath, and in lieu thereof to cause him to subscribe a solemn declaration to the same effect.—*Reg.* XXIII. 1814, *Sect.* 66.

A solemn declaration may be admitted in lieu of the oath.

Form of Oath to be administered to persons appointed to the Office of Sudder Ameen.

I, A. B. appointed to the office of Sudder Ameen of the Zillah or City do solemnly swear,* that in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment, without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive, any money, effects, or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute, I will strictly adhere to all the rules prescribed

* Regulation XVIII. 1817, Section 2, Clause 2, directs that the word "declare" shall be substituted for the word "swear" in the oath, and that the declarer shall not be sworn thereto.

for my guidance; and I will in all respects truly and faithfully execute the trust reposed in me."—*App. to Reg.* XXIII. 1814, *No.* 8.

SECT. II.

Penalties for Misconduct.

Section 9 and 10, of this Regulation, applicable to Sudder Ameens, whose cutcherries shall be held in such places as the Judges may direct.

9. The provisions of Sections 9 and 10, of this Regulation, are hereby declared to be applicable to the office of Sudder Ameens, as well as to that of Moonsiffs appointed under this Regulation; the Sudder Ameens are to hold their cutcherries at the station where the Zillah or City Court is held, in such convenient places as the Judge may direct.—*Reg.* XXIII. 1814, *Sect.* 67.

[For Sections 9 and 10, vide CHAP. I. Par. 25, 26, and 27.]

SECT. III.

Suspension and Dismissal of Sudder Ameens.

10. [These rules will be found in CHAP. I. Par. 28, 29, 30, and 31.]

SECT. IV.

Amount and Nature of Suits cognizable by Sudder Ameens.

Provisions of existing Regulations rescinded.

11. Section 68, Regulation XXIII. 1814, Clauses First and Second, Section 7, Regulation XXIV. 1814, Clauses First and Second, Section 5, Regulation II. 1821, and Section 2, Regulation IV. 1827, declaratory of the powers which may be vested in Sudder Ameens in the decision of original suits are rescinded, and the following rules are enacted in lieu thereof, to be in force from the date of the operation of this Regulation.—*Reg.* V. 1831, *Sect.* 15, *Cl.* 1.

Suits for claims of what amount, and of what nature cognizable by Sudder Ameens.

12. The Zillah and City Judges are hereby declared competent to refer to any of the Sudder Ameens subject to their authority for trial and decision any original suits depending or instituted in their Courts for money or other personal property or possession of land, or of other real property, the amount or value of which, calculated according to the rules

specified in No. 8, of the Schedule B. referred to in Section 17, Regulation X. 1829, (vide Appendix,) may,not exceed one thousand Rupees. Provided however, that no suit shall be referred for trial to a Sudder Ameen in which he himself or his relatives, or dependants, or the vakeels or officers of his Court shall be a party, or in which an European British subject, an European foreigner, or an American shall be a party.—*Reg.* V. 1831, *Sect.* 15, *Cl.* 2.

Proviso.

SECT. V.

Suits of Paupers.

13. So much of Section 68, Regulation XXIII. 1814, Section 6, Regulation XXVIII. 1814, or of any other Regulation in force, as directs that no suits shall be referred for trial and decision to a Sudder Ameen in which the plaintiff may have been admitted to sue *in formâ pauperis*, is hereby rescinded.—*Reg.* XIII. 1824, *Sect.* 4, *Cl.* 1.

Part of Section 68, Regulation XXIII. 1814, and Section 6, Regulation XXVIII. 1814, rescinded.

14. When a plaintiff may have been admitted by the Judge or Register of a Zillah or City Court, to institute his suit *in formâ pauperis*, under the rules for paupers contained in Regulation XXVIII. 1814, and the suit may, in other respects, be referrible to a Sudder Ameen, it shall be competent to the Judge to refer the same for trial and decision by one of the Sudder Ameens, attached to the Zillah or City Court, or stationed with the Register in any other part of his jurisdiction; and the suit so referred shall be proceeded upon by the Sudder Ameen as in other suits referred to him subject to the provisions contained in Regulation XXVIII. 1814.—*Reg.* XIII. 1824, *Sect.* 4, *Cl.* 2.

The Judge may refer suits *in formâ pauperis* to a Sudder Ameen.

15. The provisions in the Regulation above-mentioned respecting pauper defendants in original suits, as well as those respecting pauper appellants and respondents in appealed cases, shall likewise be considered applicable to defendants in original suits, and to appellants and respondents in appealed cases referred for trial to Sudder Ameens; but no person shall be admitted by a Sudder Ameen to prosecute or defend an original suit or appeal, *in formâ pauperis*, with-

Certain provisions in Regulation XXVIII. 1814, declared applicable to parties in appealed cases referred for trial to Sudder Ameens.

Exception.

out the written order of the Zillah or City Judge, or of the Register with whom the Ameen may be stationed, authorizing the admission of the party as a pauper under the provisions of Regulation XXVIII. 1814.—*Reg.* XIII. 1824, *Sect.* 4, *Cl.* 3.

Provision in Section 5, of the same Regulation extended to Sudder Ameens.

16. The Judges and Registers who are empowered by Section 5, of the Regulation above-mentioned, to employ an authorized Officer of the Court in taking the examinations of parties and witnesses for the purposes therein specified, may however employ the Sudder Ameens attached to their respective Courts, in taking such examinations and generally in making the inquiries provided for by that Regulation.

But no final order to be passed for admission of a pauper suit without the sanction of the Judge or Register.

But no final order for the admission of a pauper shall be passed by a Sudder Ameen, nor shall the commitment of pauper plaintiffs to close custody, in pursuance of Section 11, Regulation XXVIII. 1814, be carried into execution by a Sudder Ameen, without the sanction of the Judge or Register, to whom it may belong to enforce the decision of the Ameen in such cases.—*Reg.* XIII. 1824, *Sect.* 4, *Cl.* 4.

[All the rules which apply to the suits of paupers are given in the Appendix to this Work.]

SECT. VI.

Salaries of Sudder Ameens.

Parts of Regulation XXIII. 1814, and Regulation II. 1821, rescinded.

17. Such parts of Regulation XXIII. 1814, and of Regulation II. 1821, or of any other Regulation in force, as authorize Sudder Ameens to receive as a compensation in original suits and appeals derived by them, or adjusted before them by Razeenamah, the amount of the institution fee, or stampt duty substituted for such fee, on the suits or appeals so decided or adjusted, are rescinded, and shall have no operation after the 30th day of April 1824.—*Reg.* XIII. 1824, *Sect.* 2, *Cl.* 1.

Sudder Ameens to receive monthly allowances in lieu of fees.

18. From the first day of May 1824, the Sudder Ameens shall in lieu of the fee and compensation above-mentioned, receive from Government such monthly allowances as may

be fixed for them respectively, by the orders of the Governor General in Council.—*Reg.* XIII. 1824, *Sect.* 2, *Cl.* 2.

SECT. VII.

Stamp Duties.

19. [The scale of stamp duties, and the amount to be refunded on the adjustment of the suit by Razeenamah, will be found in the Appendix, Schedule B.]

SECT. VIII.

General Rule for the Trial of Suits.

Sudder Ameens in the trial and decision of suits are directed to follow in certain cases the rules prescribed for Moonsiffs, and in all other cases, not thus expressly provided for, to observe as nearly as may be practicable the rules prescribed for the guidance of the Zillah and City Courts. The compiler has therefore been under the necessity of recapitulating those rules which have been laid down for the Zillah Courts, which are to be followed as nearly as possible by the Sudder Ameens. These rules are distinguished by an (*) placed after the number.

Original suits how to be tried and determined by Sudder Ameens.

20. Original suits referred to a Sudder Ameen under the preceding Clause shall be tried and determined in conformity with the provisions of Regulation XXIII. 1814.—*Reg.* V. 1831, *Sect.* 15, *Cl.* 3.

Recital of the provisions of this Regulation which are applicable to suits tried by Sudder Ameens.

21. The provisions contained in Sections 18 and 23, Clause Fourth, Section 25, in Sections 26, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 44, 46, 47, 48, and 49, of this Regulation, are hereby declared to be equally applicable to original suits referred to Sudder Ameens as to those tried by Moonsiffs. The special rules prescribed in Sections 57, 58, and 59, shall be likewise strictly observed by the Sudder Ameens in all suits, which may be referred to them relative to the inheritance of, or succession to landed property.—*Reg.* XXIII. 1814, *Sect.* 73.

Rules to be followed in cases not expressly provided for.

22. In points not expressly provided for by the foregoing rules, the Sudder Ameens shall observe as nearly as may be practicable the rules prescribed in the Regulations for the guidance of the Zillah and City Courts in the trial and decision of original civil suits.—*Extract from Reg.* XXIII. 1814, *Sect.* 74.

SECT. IX.

Rules for computing the period within which Suits are cognizable by Sudder Ameens.

23. [The same as those for Moonsiffs. Vide CHAP. I. Par. 10, 11, 12, 13, 14, and 15.]

SECT. X.

Rules for computing the Value of the Property in Litigation.

24. [The same as those for Moonsiffs. Vide CHAP. I. Par. 16, 17, 18, and 19; and also Schedule B. in the Appendix.]

SECT. XI.

Filing of the Plaint.

Only plaintiffs or defendants, or their vakeels duly empowered, to be allowed to prefer or defend a suit. No other persons, excepting the witnesses of the parties, to be heard vivâ voce in a cause.

25*. No complaint is to be received but from the plaintiff, nor any answer to a complaint, but from the defendant, or their respective vakeels duly empowered. Nor is any person to be permitted to do any act, or to be heard vivâ voce in any stage of a cause, excepting the plaintiff or defendant, or their vakeels or witnesses.—*Reg.* IV. 1793, *Sect.* 2.

What a complaint preferred to a Zillah or City Court is to contain.

If it is for malguzarry or lakheraje land, the annual produce is to be specified.

What is meant

26*. Every complaint that may be presented to the Court of Dewanny Adawlut of any Zillah, or of either of the cities of Patna, Dacca, or Moorshedabad, is to state precisely the matter of complaint. If it be concerning a zemindaree, or an independant, or a dependant talook, or any landed property being lakheraje (exempt from the payment of revenue to Government) or malguzarry, (subject to the payment of revenue to Government) it is to state the amount of the annual produce of the land according to the most accurate estimate which the claimant may be able to procure. To ob-

viate all doubt respecting what is meant by the annual produce of lakheraje and malguzarry lands, it is declared to be the aggregate of the sums that may have been paid under the Regulations by the dependant talookdars, under-farmers and ryots, on account of the year in which the claim may be preferred, and that would be payable by them were the claimant to be put into possession of the lands during that year. If the complaint is for a house, garden, tank, or any real property not being malguzarry or lakheraje land, or any valuable thing, or relating to marriage or caste, or for damages for any injury, it is to state according to the nearest estimate the exact sum of money, or the amount in which the plaintiff may be endamaged. The complaint is also to specify the name of the person complained against, the time when the cause of action arose, and is to be signed by the complainant, or his vakeel duly authorized. The complaint is to be signed and numbered, and dated in the order in which it may be received, by the Judge of the Court, and is to be registered in a book by a native officer of the Court, whose particular duty it is to be made, to copy and register complaints. Every complaint, answer, reply, and rejoinder, is to be written in the Persian or the Bengal language and character, or in the Hindoostanee language and Nagree character, and no other, and the parties are to be permitted to deliver their pleadings in whichever of the languages and characters they may think proper.—*Reg.* IV. 1793, *Sect.* 3.

by the annual produce.

If for any other property or money, or damages, the amount or value or the sum in which the party may be endamaged, is to be specified.

Complaint to specify the name of the defendant and when it arose, and to be signed by the party, or his vakeel. Judge to sign, number, and date, the complaint.

Complaint to be entered in a book by a native officer.

In what language the complaint, answer, reply and rejoinder are to be written.

27. [The rules for Moonsiffs, CHAP. I. Par. 43, are declared applicable to Sudder Ameens.]—*Reg.* XXIII. 1814, *Sect.* 73.

SECT. XII.

Notification to Defendants.

28*. Upon the institution of a Civil suit in the mode prescribed by the regulations, in any Zillah or City Court, the general first process against the defendant, instead of the summons and requisition of security for appearance prescribed by Section 5, Regulation IV. 1793, and Section 5, Regulation III. 1803, shall be a notice only containing a short

The general first process to be issued by the Civil Courts, instead of the summons, and requisition of security prescribed by Section 5, Regulation IV. 1793, and Section 5, Regula-

tion V. 1803, shall be a notice only.

What the notice shall contain.

statement of the demand, with a requisition to attend in person or by vakeel, and to deliver an answer to the plaint, on or before a certain day, to be specified in the notice.—*Reg.* II. 1806, *Sect.* 2, *Cl.* 1.

How the notice is to be served if the defendant have an accredited agent residing at the place where the Court is held, to receive such notices or other judicial processes.

Notice to be rendered to such agent, and his acknowledgement to be endorsed on it, shall be accepted as a sufficient service of it.

29*. If the defendant have an accredited agent at the place where the Court is held, expressly empowered, either by a clause in his general moktarnamah, or by a separate moktarnamah granted for that purpose, to receive on behalf of his constituent notices or other judicial processes, which may not be specially ordered to be served personally, by an officer of the Court; the notice to be issued under the preceding Clause, shall be tendered to such agent to be communicated by him to his principal; and the agent's acknowledgement, to be endorsed upon it, shall be accepted as a sufficient service of it; if he be desirous of giving such acknowledgement in preference to the notice being served on the person of his principal by an officer of the Court.—*Reg.* II. 1806, *Sect.* 2, *Cl.* 2.

How the notice is in other cases to be served.

30*. If the defendant shall not have an accredited agent at the place where the Court is held, or if he shall not have expressly authorized his agent to receive notices of the above description; or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the jurisdiction of the Court; it shall be served on him through the nazir of the Court, by a single chuprassy or peon; who shall require only the acknowledgement of the defendant to be endorsed upon it; or if he be absent from his usual place of residence, the acknowledgement of his principal agent; or of any person acting for him during his absence. If the defendant be resident within the jurisdiction of any other Zillah or City Court than that in which the suit may have been instituted; the notice shall be transmitted to the Judge of the Zillah or City in which the defendant may reside, to be served in the manner above directed. If the defendant be neither resident within the jurisdiction of the Zillah or City Court in which the suit may be instituted or of any other Zillah or City Court; and the suit shall notwithstanding be cogniza-

To be served by a single peon or chuprassy who shall require only the endorsement of its receipt by the defendant, or, if he be absent, the acknowledgement of his principal agent or person acting for him.

How the notice is to be served if the defendant be resident in another jurisdiction.

Or, if the defendant be neither within such jurisdiction nor within that of any other Zillah or

ble; either in claims to landed or other immovable property, from the property claimed being situated within the jurisdiction of the Court; or in other cases from the cause of action having arisen within its jurisdiction; the notice, if the suit be for land or other immovable property shall be served upon the defendant's agent or representatives in charge of such property; and in other suits, the Judge shall cause notice of the claim to be conveyed to the defendant, in such manner as may appear most certain and convenient according to the circumstances of the case.—*Reg.* II. 1806, *Sect.* 2. *Cl.* 3.

City Court, and the suit be cognizable notwithstanding, from the property if immovable being situated in such jurisdiction, or from the cause of action having arisen therein; in the former case, the notice to be served upon the agent in charge of such property; and in the latter, in such manner as the Judge may deem most certain and convenement.

31*. If a defendant to whom a notice may have been issued, as directed in the preceding Section, shall abscond or is not, after diligent search to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the Judge (or the Register in causes referred to him,) on receiving the nazir's return to this effect, shall issue a proclamation, as directed in similar cases, when a summons cannot be served upon a defendant, by Section 11, Regulation IV. 1793, (1) and Section 13, Regulation III. 1803. If the defendant shall not appear in person or by vakeel, by the time limited in such proclamation, or if a defendant, who may have been served with a notice, as directed in the preceding Section, shall not appear in person or by vakeel, within the time specified; or if, having appeared, he shall refuse to answer the plaint, or make other default; the Court, as provided in the Sections above-mentioned, shall proceed to try the cause exparte; and after examining the plaintiff's evidence in support of his claim, shall give judgment, in the same manner as if the defendant had appeared, answered, and entered into proof.—*Reg.* II. 1806, *Sect.* 3.

Court how to proceed against a defendant to whom a notice may have been issued, who shall abscond, or cannot be found, or acts so that the notice cannot be served on him.

Proclamation to be issued, and what it shall contain.

Cases in which the court is to proceed *exparte* on the allegations and evidence of the plaintiff only.

(1) *Rules for the issue of the Proclamation.*

If a defendant against whom a summons may issue shall abscond, or is not after diligent search to be found or shall shut himself up in his own or in any house or building, or retire to any place so that the process cannot be served upon him, and the nazir shall return that on such account he has not been able to serve or execute the process, the

Judge is to cause a writing in the Persian and Bengal languages, if it be in Bengal or Orissa, or in the Persian language, and the Hindoosthanee language and Nagree character, if it be in Behar, to be stuck up in some conspicuous part of the room, in which the Court may be held. The writing is to contain a copy of the summons and a notice, that if the party shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the summons may be fixed up) the Court will proceed without further notice to try and determine the cause without the appearance or answer of the defendant. The Court is likewise to order a copy of the summons and notice to be fixed up with all practicable dispatch on the outer door of the house in which the defendant may have usually dwelt, or in some conspicuous place in the village or other place in which he may generally reside. The nazir is to return the order with an endorsement stating at what time and places the summons and notice may have been fixed up. The return of the nazir is to be filed in Court, and to form a part of the Record of the trial.—*Extract from Reg.* IV. 1793, *Sect.* 11.

32. [For the mode of serving notices on Weavers and Molungees employed in the public service, vide CHAP. I. Par. 47 and 48.]

SECT. XIII.

Securities.

33. [The rules regarding securities are the same as those prescribed for Moonsiffs, for which vide CHAP. I. Par. 54 and 55; those regarding security for the execution of decrees are as follow:]

Malzaminy security to be required in cases wherein it may appear to the Judge or Register on sufficient proof that the defendant means to dispose of the property or land in dispute, by

34*. In any case if the Judge (or the Register in causes referred to him) be satisfied by sufficient proof, that there is ground to apprehend the defendant means to dispose of the property in his possession by any private transfer, or to cause the public sale of any disputed land, by withholding the assessment upon it; or to remove any personal pro-

perty from the jurisdiction of the Court, whilst the suit against him is depending; for the purpose of avoiding the execution of an eventual judgment against him, the Judge (or Register) is authorized to call upon the defendant for malzaminy security, in such sum as may appear sufficient to make good the ultimate judgment of the Court, and in the event of such security not being given (within a reasonable time to be allowed for that purpose) to cause the attachment of any land, effects, or other property belonging to, or possessed by the defendant, to the amount or value of the cause of action in the suit depending, or the attachment of which may be deemed necessary to secure the execution of the judgment to be passed in the cause.—*Reg.* II. 1806, *Sect.* 5, *Cl.*1.

private transfer or public sale; or in any of the modes herein specified.

If the security be not furnished within a reasonable time, any land, property or effects in the possession of the defendant, to the amount or value of the cause of action, to be attached.

35*. The attachment in such cases shall be made by a written order of the Court, to be read and proclaimed upon the spot, and to be affixed in some conspicuous situation at the place where the property is situated; after which any private alienation of the property sequestered, whether by sale, gift, or otherwise, during the continuance of the attachment, shall be deemed illegal and void; and any unauthorized removal of the property so attached, during such period, with a view to oppose or evade the sequestration, shall be punishable, on proof, as an act of resistance to the process of the Court, according to the provisions in force concerning resistance to the process of the Civil Courts. In suits for landed property of considerable value, wherein it may appear necessary, for the purposes of justice, to divest the defendant from the management of the land until the suit be decided, or malzaminy security be given, the attachment shall be made through the Collector of the district in which the land is situated; as prescribed by Section 6, Regulation V. 1798, (CHAP. I. Par. 108,) and by Clause Ninth of Section 12, Regulation IV. 1803, in appealed cases, wherein neither the appellant nor respondent may be able to give security for staying execution of the decree. But in other cases the attachments, which may be ordered under the present rule shall not, without special cause, to be recorded on the proceedings of the Court, remove the defendant or his representative from the possession and management of the land,

How the attachment in such cases to be made; after which any private alienation of the property in dispute by sale, gift or otherwise declared to be illegal and void.

Any unauthorized removal of the property attached to be punished on proof as a resistance to the process of the Court, in the manner directed by the existing Regulations.

Attachment in the mode directed by the Regulations herein quoted to be made through the Collector, in suits for landed property of considerable value if necessary until the suit be decided or malzaminy security be given.

In all other cases the attachments made under this rule, shall not without special cause, remove the defendant or his representative from the pos-

session and management of the lands attached. Nor preclude any act of the defendant or his representative consistent with the object of the attachment.

or other property attached, until a decision be passed in the cause before the Zillah or City Court; nor be understood to preclude any act of the defendant or his representative relative to such property, which may be consistent with the object of the attachment.—*Reg.* II. 1806, *Sect.* 5, *Cl.* 2.

How the Judge or Register is to proceed with regard to the property attached, after the decision of the suit.

36*. Upon the decision of the suit, the Judge (or Register) shall pass such further order relative to the property attached as may be just and conformable with the judgment given in the cause. If the decree be against the defendant, all right and interest possessed by him in the property attached (saving arrears of rent or revenue due from land, and any other bonâ fide claims which may be entitled to satisfaction in preference to the decree) shall be held answerable for the execution of the judgment, in the mode prescribed by the regulations.

Provision if the plaintiff's claim be dismissed, or not in any considerable portion established against the defendant.

But if the plaintiff's claim be dismissed, or be not in any considerable proportion established against the defendant, all expense and loss to the defendant, which may arise from the attachment of his property in consequence of such claim, shall be reimbursed to him by the plaintiff, as part of the costs of suit.—*Reg.* II. 1806, *Sect.* 5, *Cl.* 3.

Sureties prohibited from transferring their rights in any immovable property on which their security may have been accepted.

37*. All persons who may enter into security bonds for the purposes mentioned in the preceding clause, are prohibited from transferring, or from causing to be transferred by sale, gift, mortgage, or otherwise, any land or other immovable property belonging to them, and specified in the schedule of property on which their security may have been accepted, until the object of their security shall have been completely fulfilled.—*Reg.* XXVI. 1814, *Sect.* 13, *Cl.* 2.

Explaining the purport and intent of the foregoing prohibition.

38*. This prohibition however shall not be construed to affect the legality of any private transfer or mortgage of such property, in cases in which the amount of any demand on the surety, which may eventually arise under the terms of the security bond, shall be duly discharged by him; but it is hereby declared, that no private transfer or mortgage of such property which may be made by a surety in the inter-

val between the execution of the security bond, and the final and complete enforcement of the judgment, shall be considered to bar the prior right of the Court to hold the whole or any part of such property answerable in the first instance for the amount of any demand upon it, which may eventually arise under the terms of the security bond, and which may not be duly discharged by the surety.—*Reg.* XXVI. 1814, *Sect.* 13, *Cl.* 3.

Promissory notes or other obligations to be considered as sufficient security.

39*. When personal bail or security for money or other property, may be demandable from a party in any original civil suit, or appeal, and he shall tender a deposit of money, or of promissory notes, or other obligations of Government, or any other sufficient money security, to the amount required; such deposit shall be accepted instead of hazirzaminy or malzaminy securities; and shall be carefully kept by the treasurer of the Court; to be restored, or disposed of as the Court may direct, on the termination of the cause, or whenever the purpose, for which the deposit is made, shall have been accomplished.—*Reg.* II. 1806, *Sect.* 8.

Such securities how to be kept.

SECT. XIV.

General Process.

Process of the Sudder Ameen how to be issued.

40*. So much of the rule, contained in Section 74, of the said Regulation (XXIII. of 1814) which requires that every notice, summons, attachment, or other process relative to any cause depending before a Sudder Ameen shall be issued under the official signature of the Judge or Register, is hereby rescinded, such processes, signed and sealed by the Sudder Ameen shall issue through their own officers, and not as heretofore under the signature of the Judge through the Nazir of the Court —*Reg.* V. 1831, *Sect.* 15, *Cl.* 4.

Process of the Courts to be served according to the regulation of it, without application to any person, or the interference of any individual.

41*. Every process, rule, order or decree, of the Zillah and City Courts (with the exception contained in this Section) is to be immediately served or executed, without application to any person or the interference of any individual whomsoever, according to the requisition of it, within the limits of the special jurisdiction of each Court. But in every case in

Exception to the

rule made in favour of defendants who may be women of the description herein specified.

which the defendant shall be a Hindoo or Mahomedan woman of a rank or quality, which, according to the customs and usages of the country, would render it improper to compel her to appear in an open Court of justice, the Judges of the Zillah and City Courts are not to issue any compulsory process against her, to compel her to appear and make answer,

How such women are to be summoned when defendants.

but are to issue a summons requiring her to appear in person or by vakeel, at a certain time to be named in the summons, in the Zillah or City Court, and answer to the complaint, and abide by the orders which the Court may think proper to pass in the cause. The summons is to be directed to the Nazir of the Court, and is to contain a short account of the nature of the demand or complaint, with a notice that if the defendant shall not appear, as required by the summons at the time specified in it, or having so appeared, shall not answer to the complaint at the time which may be fixed by the Court, or make any other default, the Court will proceed to try and determine the cause in the same manner as if the defendant had appeared, answered, and done, what she is authorized or required to do in defence of the suit. The summons is further to command the Nazir to deliver a copy of it to the dewan, or some principal servant of the defendant. The Nazir is not to have recourse to compulsion to enforce the summons, but is to serve it in the manner herein directed, and no other. The Nazir is to return the summons on the day appointed for the appearance of the defendant, with an endorsement specifying in what manner he has executed it, and if he has not executed it, the reason why it has not been executed. If the defendant should appear in person or by vakeel, the Court is to fix a certain day according to its discretion, for her to answer to the complaint, and to appoint a day for the parties to deliver in their pleadings, and the Court is to try and determine the cause, in the same manner as suits instituted against persons not being women of the above-mentioned description. Upon the summons being issued, if the dewan or other principal servant of the defendant shall abscond, or otherwise act so that the summons cannot be served upon him, or shall not after diligent search and enquiry be found, the Judge, upon the return of the summons and proof being made before him on

Summons to be directed to the nazir. What it is to contain.

The nazir to serve the summons in the manner herein mentioned and no other.

Nazir to return how he has served the summons.

Court how to proceed if the defendant should appear in conformity to the summons.

Court how to proceed in case the principal servant of the defendant cannot be served with the summons, and the defendant shall not appear in person or vakeel.

oath of the fact, is to proceed against the defendant in the same manner as he is directed to proceed against a defendant, who after diligent search cannot be found, or shall have absconded or otherwise acted so that he could not be served with a summons. If a female defendant on whom no summons can be served, after the prescribed notice has been issued, shall not appear as required, or appearing shall neglect or refuse to answer, or make other default, or admit the truth of the complaint, the Court, on examining the allegation of the plaintiff only, and receiving the depositions of his witnesses, are to decree and give judgment in the same manner as if the defendant had appeared, answered, and entered into proof.—*Reg.* IV. 1793, *Sect.* 13.

Judicial [European] officers empowered to superintend in person the execution of their own process, and to adopt such legal measures on the occasion as may appear necessary.

42*. Whenever the Judge or Register of a Civil Court, or a Magistrate or Joint Magistrate, or any other [European] Public Officer authorized by the Regulations in force to issue process of arrest or other judicial process, civil or criminal, upon the person or property of individuals amenable to their respective jurisdictions, may for any special reason, deem it necessary to be personally present at the execution of such process; and to see that the same be duly executed in the manner prescribed by the Regulations; it shall be competent to the Public Officer, who may have issued the process, to attend personally for the purpose above-mentioned; and to adopt or direct any legal measures that may be necessary for the due execution thereof.—*Reg.* I. 1825, *Sect.* 2.

In what language and character the process of the Court is to be written.

43*. All orders and process of the Court which may be directed to be served or executed on any person, are to be written or printed in the Persian and Bengalee languages, in Bengal and Orissa, and in the Persian language, and the Hindoosthanee language and Nagree character, in Behar, and are to be sealed with the seal of the Court, and signed by the Judge.—*Extract from Reg.* IV. 1793, *Sect.* 20.

44*. In cases in which the Bengal language and character are directed to be used in the province of Bengal; the Oryah language and character shall be used in the Zillah of Cut-

tack, and in the above-mentioned pergunnahs —*Extract from Reg.* XIV. 1805, *Sect* 11.

SECT. XV.

Resistance of Process.

Zillah Court how to proceed against zemindars, independent talookdars or other actual proprietors of land, or dependant talookdars, who may resist their process.

45*. If a zemindar, independent talookdar, or other actual proprietor of land, or a dependant talookdar, shall resist, or cause to be resisted, any process, rule, order, or decree, of a Zillah court, the Court on proof of the resistance being made by oath to its satisfaction, is to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that he cannot be served with the summons, the Court is to proceed against him in the manner directed with regard to other persons absconding or acting as above specified, so that they cannot be served with the process of the Court. If the offender shall not appear within the prescribed time, or if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the Court, that he is guilty of the charge, the Court is to decree that the offender shall from the date of the decree, forfeit his zemindarry, talook, or other estate, in which the resistance may have been made; or, if the resistance shall have been made out of the limits of the estate of the offender, the zemindarry, talook, or other landed property that he may possess within the jurisdiction of the Court, the process of which may have been resisted. If the cause shall not be appealed to the Provincial Court of Appeal within the time limited for preferring appeals to that Court in Section 12, Regulation V. 1793, the Court is immediately to forward a copy of its decree and proceedings respecting the charge to the Governor General in Council. If the offender shall appeal to the Provincial Court of Appeal within the prescribed period, and the Court should confirm the decision of the Zillah Court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that Court

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

Decree to be passed if the offender shall not appear, or shall appear, and be proved guilty of the charge.

A copy of the decree to be sent to the Governor General in Council, if the cause shall not be appealed in time.

If the offender should appeal, and the decision of the Zillah Court be confirmed, the provincial Court to transmit a copy of the decree and proceedings to the Governor General in

in Section 10, Regulation VI. 1793, the Provincial Court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the Zillah Court to the Governor General in Council. If an appeal shall be received from the decision of the Provincial Court, and the Sudder Dewanny Adawlut should confirm the decree of that Court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the Provincial Court of Appeal, to the Governor General in Council. That no doubt may be entertained from what decrees passed by the Provincial Courts of Appeal under this Section, an appeal is to be allowed to the Sudder Dewanny Adawlut, it is declared that an appeal shall not lie to the last mentioned Court, unless the annual produce of the lands of the offender which may be adjudged forfeited (calculating according to the amount paid and payable to the offender by the dependant talookdars, under-farmers, and ryots, on account of the year in which the decree may be passed) shall exceed one thousand Sicca Rupees. In the event of an appeal from the decree of the Provincial Court being presented to the Sudder Dewanny Adawlut, and the admission or rejection of the appeal depending upon the produce of the lands for the year before-mentioned exceeding or falling short of one thousand Sicca Rupees, the Court of Sudder Dewanny Adawlut is to order the Provincial Court to obtain the necessary information regarding the produce, and after receiving their report, admit or reject the appeal, according as they may deem equitable. It shall be at the option of the Governor General in Council, within four weeks after the receipt of a decree adjudging the estate of any person forfeited under this Section, either to order it to be executed, or to commute the forfeiture for such fine as upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed. In the event of the Governor General in Council commuting the forfeiture, the Court which shall have transmitted the decree and proceedings to him, upon receiving notice of the fine that he may impose, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the

Council in the event of the offender not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut how to proceed if the suit should be appealed to them, and they should confirm the decision of the Provincial Court.

Rule for determining from what decrees of the Provincial Courts passed under this Section, an appeal is to lie to the Sudder Dewanny Adawlut.

If the lands are decreed forfeited, the Governor General in Council may confirm the decree, or commute the forfeiture for a fine within four weeks after he may receive the decree.

If the forfeiture is commuted for a fine, by what Court and how it is to be levied.

Decree of forfeiture to be final, if the Governor General in Council shall not order it to be executed, or commute it for a fine within four weeks.

If the decree is declared or becomes final, the Court to issue a precept to the Collector to sequester the lands.

Court. But if the Governor General in Council shallnot within four weeks after the decree shall have been received by him, either order it to be executed, or commute the forfeiture for a fine, the decree is to stand good against the offender. In such case, or in the event of the Governor General in Council ordering the decree to be executed, the Court is to issue a precept, under the seal of the Court and the signature of the Register requiring the Collector of the revenue of the Zillah to depute an Ameen with a proper establishment of officers (whose allowance are to be specified in the precept) to sequester the lands, and collect the rents and revenues. If the lands of the offender shall be deemed by the Court too inconsiderable to admit of their being charged with the expense of an Ameen, they are to direct a precept to be issued to the Collector of the Zillah to order the nearest tehseeldar, or any other officer who may be employed under him in the business of the collections, to take charge of the lands. The officer is to perform the duties prescribed to Ameens in such cases, and under the same restrictions and penalties.—*Reg.* IV. 1793, *Sect.* 22.

Sections 22, 23, and 24, Regulation IV. 1793, extended to the Cities of Dacca, Moorshedabad, and Patna.

46*. Sections 22, 23, and 24, Regulation IV. 1793, (Par. 45, 48, and 49,) are extended and declared applicable to all instances of resistance to any process, rule, order, or decree of the Civil Courts established in the Cities of Dacca, Moorshedabad, and Patna, by any zemindar, independant talookdar, or other actual proprietor of land, or dependant talookdar, or farmer of land holding a farm immediately of Government,

Provision in case the offender possess no landed property within the jurisdiction of the City Courts.

with this further provision, viz. If the offender possess no zemindaree, talook, or other landed property within the jurisdiction of the Court, whose process he may have resisted or caused to be resisted, so that no decree of forfeiture can be passed against him in pursuance of Section 22, Regulation IV. 1793, the offender, on proof of the charge against him, shall be liable to a fine to Government to be adjudged and levied under the provisions contained in Section 25, of the above Regulation.—*Reg.* IX. 1799, *Sect.* 2.

In what cases a fine may be substituted for the judg-

47*. In all cases of resistance to the process of any Zillah or City Court of Dewanny Adawlut in the provinces of

Bengal, Behar, Orissa or Benares, if the Judge of the Court whose process may have been resisted, shall be of opinion that a fine to Government will be a more proper and adequate punishment for the offence than a forfeiture of the offender's estate or farm, under the provisions contained in Sections 22, 23, and 24, Regulation IV. 1793, and Sections 5, 6, 7, and 8, Regulation VIII. 1795, he is authorized, instead of the decree of forfeiture directed by the above Regulations, to adjudge the offender to pay such fine to Government as may appear proper upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted, as provided with regard to persons not being landholders or farmers of land by Section 25, Regulation IV. 1793, and subject to the provisions in that Section for an appeal from the judgment of the Court. Further, in cases wherein a decree for the forfeiture of an estate or farm may be passed and transmitted to the Governor General in Council under the Regulations above-mentioned, instead of such decree being considered final and carried into execution, unless the Governor General in Council shall order its commutation to a fine within four weeks after the decree shall have been received by him, the decrees in question shall not be hereafter deemed final until confirmed by the Governor General in Council; and shall not be carried into execution until notice of his confirmation be received.—*Reg.* IX. 1799, *Sect.* 3.

ment of forfeiture directed by Sections 22, 23 and 24, Regulation IV. 1793, and Sections 5, 6, 7 and 8, Regulation VIII. 1795.

Decree for the forfeiture of estate or forms under above Regulations not to be deemed final or carried into execution till confirmed by Governor General in Council, and notice of his confirmation be received.

48*. If the decree adjudging the lands of the offender forfeited, shall be confirmed or stand good under Section 22, it shall be at the option of the Governor General in Council, either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever that may be due from him to Government on account of the lands forfeited, and to pay the fixed public revenue assessed upon them, or if the property forfeited be a dependant talook, the revenue payable from it to the proprietor within whose estate it may be situated; or to order the lands to be disposed of at public sale, under the rules prescribed for the sale of lands so forfeited in Regulation XLV. 1793.—*Reg.* IV. 1793, *Sect.* 23.

If the forfeiture should stand confirmed the Governor General in Council to confer the estate on the heirs of the offender, or to dispose of it at public sale.

Courts how to proceed against persons holding farms of Government, who may resist their process.

49*. If a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from any Zillah Court, on proof of the resistance being made by

Offender to be summoned to answer for his conduct.

oath to its satisfaction, the Court is to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house or building, or retire to any place so that he cannot be served with

Court how to proceed if the offender shall not obey the summons.

the summons, the Court is to proceed against him in the manner directed with regard to other persons absconding or otherwise acting as above specified, so that they cannot be served with the process of the Court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the Court, that he is guilty of the charge, the Court is to decree the lease cancelled from the expiration of the Bengal, Fussily, or Willaity year (according as the farm may be situated in Bengal, Behar, or Orissa) in which the decree may

A copy of the decree to be sent to the Governor General in Council if the cause shall not be appealed in time.

be passed. If the offender shall not appeal to the Provincial Court of Appeal within the time limited for preferring appeals to that Court in Section 12, Regulation V. 1793, the the Court is immediately to transmit to the Governor General in Council a copy of the decree and of all the proceedings respecting the charge. If the offender shall appeal to the

If the offender should appeal, and the decision of the Zillah Court be confirmed, the Provincial Court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the offender not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable.

Provincial Court of Appeal within the prescribed period, and the Court should confirm the decision of the Zillah Court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that Court in Section 10, Regulation VI. 1793, the Provincial Court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the Zillah Court to the Governor General in Council. If an appeal from the decision of the

Sudder Dewanny how to proceed if they should admit an appeal and confirm the decree of the Court.

Provincial Court shall be admitted, and the Sudder Dewanny Adawlut should confirm the decree of the Provincial Court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceeedings

received from the Provincial Court of Appeal, to the Governor General in Council. That no doubt may be entertained from what decrees passed by the Provincial Courts of Appeal under this Section, an appeal is to be allowed to the Sudder Dewanny Adawlut, it is declared that an appeal shall not lie to the last mentioned Court, unless the revenue payable to Government by the offender for that year in which the decree may be passed on account of the lands the lease for which may be adjudged annulled, shall exceed one thousand Sicca Rupees. It shall be at the option of the Governor General in Council, within four weeks after the receipt of a decree adjudging the lease of a farmer annulled under this Section, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine as upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed; or, if the offender shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed upon the offender, the Court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the Court. But if the Governor General in Council shall not within four weeks after the decree shall have been received by him, either order it to be executed or commute the forfeiture of the lease for a fine, the decree is to stand good against the offender, and the Court is without delay to cause a copy of the decree to be sent to the Collector. If the lease of the offender shall be annulled, and a balance shall be due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the Collector of the revenue of the Zillah is empowered to proceed against them for the recovery of it in the manner prescribed in Section 20, Regulation XIV. 1793, for the recovery of balances due from farmers

Rule for determining from what decrees passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

Option reserved to the Governor General in Council to confirm the decree or commute it for a fine, and to compel the farmer to perform the conditions of his lease.

By what Court and how such fines are to be levied.

If the lease of the offender should be annulled, how balances due from him are to be recovered.

whose leases may be declared annulled under that Regulation. The offender is permitted to prosecute in the Dewanny Adawlut of the Zillah in which the farm may be situated, the dependant talookdars, under-farmers, and ryots, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him on account of the period during which his lease remained in force.—*Reg.* IV. 1793, *Sect.* 24.

Farmers whose leases may be cancelled how to recover balances.

50*. If any person not being a zemindar, independent talookdar, or other actual proprietor of land, or a dependant talookdar or a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from the Court of Dewanny Adawlut established in any Zillah, or in either of the three cities of Patna, Dacca, and Moorshedabad, on proof of the resistance being made by oath to its satisfaction, the Court is to cause the offender to be summoned to answer to the charge. If the person for which the summons may be issued shall abscond, or shut himself up in his own or any house, or building, or retire to any place so that he cannot be served with the summons, the Court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the Court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the Court, that he is guilty of the charge, the Court is to adjudge the offender to pay such fine to Government as may appear to it proper upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted. If the offender shall not prefer an Appeal to the Provincial Court of Appeal within the time prescribed for lodging appeals, the Court is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution. If the offender should appeal to the Provincial Court of Appeal within the prescribed time, and the Court should con-

Zillah and City Courts how to proceed against persons resisting process, who are not proprietors of land, talookdars and farmers.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

Persons fined by any Zillah or City Court under this Section to be allowed an appeal to the higher Courts under the Regulations.

firm the decision of the Zillah or City Court, the rules regarding appeals to the Sudder Dewanny Adawlut from the decisions of the Provincial Courts of Appeal for sums of money are to be held applicable to decisions which may be passed by the Provincial Courts under this Section. If the Provincial Courts should confirm the decision of the Zillah or City Court, and the fine should not exceed one thousand Sicca Rupees, or if it should be above that sum, and the offender shall not prefer an appeal to the Sudder Dewanny Adawlut within the time prescribed for lodging appeals, the Court is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution.—*Reg.* IV. 1793, *Sect.* 25.

Further proviso.

51*. Provided further, that nothing in this Regulation shall be construed to empower the Sudder Ameens to realize by their own authority any fines, which they may impose under the general Regulations. In such instances they shall report the circumstances of each case to the Zillah or City Judge, who will either remit, or modify or confirm, the fine imposed by the Sudder Ameen, and will proceed to realize the same under the same rules, as are prescribed for the execution of decrees.—*Extract from Reg.* XXIII. 1814, *Sect.* 74.

SECT. XVI.

Rules regarding Tulubana.

A register of peons employed in serving the civil and criminal processes of the Zillah and City Courts, (who may not receive a monthly salary from Government) to be prepared.

52*. The Judges and Magistrates of the several Zillahs and Cities shall call upon their respective nazirs for detailed lists of the peons now employed in the execution of civil and criminal processes, who do not receive a monthly salary from Government, and after ascertaining what number is requisite in addition to the chuprassies on the public establishments for the service of such processes, they shall select a sufficient number of the fittest persons to be so employed, and shall cause their names to be registered with the following particulars, viz. the names of their fathers, their age and places of abode, and a concise description of their persons.—*Reg.* XXVI. 1814, *Sect.* 14, *Cl.* 2.

Nazirs not to employ any peons but those who may be duly registered, or who may be officers on the public establishment.

53*. The nazirs are hereby strictly prohibited under pain of immediate dismission, from employing any person not registered in the mode above prescribed, and not being an officer on the public establishment, in the service of any process civil or criminal, or in the execution of any order or official act whatever, without a special authority from the Judge or Magistrate or other public officer competent to give such directions.—*Reg.* XXVI. 1814, *Sect.* 14, *Cl.* 3.

Distinguishing badges to be furnished to the registered peons.

54*. The peons who may be registered as above required shall be furnished with an uniform belt, or such other badge of office at the direction of the Judge as shall suffice to distinguish them from the chuprassies on the fixed estaments. The expense of such badge shall be defrayed out of the tulubana of the peon receiving the same.

And a table of rates to be prepared applicable to the several local divisions, according to which the tulubana to be paid.

The Judges and Magistrates of the several Zillahs and City Courts are to frame a table for regulating the account of tulubana demandable on the service of process civil and criminal according to the rates prescribed by the regulations or established by usage. The table shall contain a statement of the several police jurisdictions, or other more convenient local divisions, the computed distance of the centrical part of such local division, from the Sudder station, and the number of days for which tulubana is to be allowed on the serving of process within each local division calculated on the computed distance of the centre of each local division from the Sudder station.—*Reg.* XXVI. 1814, *Sect.* 14, *Cl.* 4.

The table of rates to be suspended in the cutcherry, and no higher rates to be taken or demanded.

55*. The table so framed shall be suspended for general information in the cutcherries of the Judge and Magistrate and of the Collector of the district, and no tulubana shall be allowed in any instance beyond the rates, or for a greater number of days, than may be prescribed in such table without a special written order from the Judge, or Magistrate, the Register, assistant, or other public officer competent to pass the same.—*Reg.* XXVI. 1814, *Sect.* 14, *Cl.* 5.

The amount of the tulubana demandable and a specific receipt for it to be indorsed on

56*. The amount of tulubana which may be demandable according to the table mentioned in the preceding clause, shall be specified on the back of each summons or other pro-

cess, and the amount shall be paid, by the person taking out the process, to the Nazir previously to the execution of such process: a receipt shall be endorsed on the process in each instance by the Nazir, specifying the amount, and the person from whom it was received.—*Reg.* XXVI. 1814, *Sect.* 14, *Cl.* 6.

the process, previously to its execution.

57*. When two or more processes may be served by one peon, the Judge and Magistrate, or other officer, who may order the same to be served, shall determine in what proportions the fixed rates of tulubana shall be paid by the parties respectively, and shall sign an order to that effect on the face or back of the process.—*Reg.* XXVI. 1814, *Sect.* 14, *Cl.* 7.

Provisions where two or more processes may be served by one peon.

58*. When the process shall have been executed and returned according to the preceding rules, the Nazir shall pay to the peon, who may have served the same, three-fourths of the amount of the tulubana received by him on account of such process, and the Nazir shall be entitled to appropriate the remaining one fourth of the tulubana to his own use.—*Reg.* XXIII. 1814, *Sect.* 14, *Cl.* 8.

The peon to receive three-fourths and the Nazir one-fourth of the amount of the tulubana, when the process shall have been executed.

59*. The Judges and Magistrates, the Registers, and assistants, are required to take every possible precaution, and to give all practicable attention for the purpose of preventing illegal or undue exactions of diet or subsistence money under the name or pretence of tulubana.—*Reg.* XXVI. 1814, *Sect.* 14, *Cl.* 9.

Every procaution to be adopted to prevent undue exactions on account of tulubana.

SECT. XVII.

Pleadings.

60*. If the defendant shall appear either in person or by vakeel, the Court is to fix a day according to its discretion for him to answer to the complaint, and, if it shall deem it reasonable so to do, may at any time allow the defendant a further period for delivering his answer, and if the defendant shall appear in person, and shall not have given the security above-mentioned for his appearance and attendance, the Court is to require him to give it, and in the event of his

Upon the defendant appearing, Court to fix a day for his answering, and to take security for his attendance.

Defendant to be committed to custody in the event of his not giving the required security.

Plaintiff to reply to the defendant's answer.

What the reply is, and what it is not, to contain.

refusing or omitting to comply with the requisition, he is to be committed to close custody until he shall have given the security, or performed the decree of the Court.* When the defendant has delivered in his answer to the complaint, the plaintiff is to reply to it on the next Court day, but he is not to be permitted to introduce in his reply any matter whatever which may not be contained in his complaint, but is either to acknowledge the answer of the defendant to be true, or simply and shortly deny the truth of such of the facts in the answer as he intends to dispute, or simply deny the truth of all the facts contained in it, or the competency of the answer.

Defendant to rejoin to the plaintiff's reply.

What the rejoinder is, and what it is not, to contain.

The defendant is to rejoin to the reply on the same day, but is not to be permitted to introduce in his rejoinder any matter not contained in his answer, but is simply to deny the truth of the reply of the plaintiff, or the parts of it which he means to dispute, and aver the truth or competency of his own answer; and no further pleadings whatever are to be admitted in the cause.

Cases in which the plaintiff is to be permitted to prefer a supplemental complaint.

Defendant to be allowed to deliver an answer to the supplemental complaint.

But if, from mistake, inadvertence, or other cause, the plaintiff shall have omitted to insert in his complaint any thing material to the suit, the Court, on the omission being represented either by the plaintiff or his vakeel, is to allow the plaintiff to prefer a supplemental complaint in which he is to state the matter omitted. The defendant is to be allowed to deliver an answer to the supplemental complaint on a day to be fixed for that purpose; and the plaintiff and defendant are to reply and rejoin in the same manner, as on the original complaint, but no other.

Plaintiff and defendant to be permitted to reply and rejoin.

Cases in which the defendant is to be allowed to deliver a supplemental answer.

Plaintiff and defendant to reply and rejoin.

In like manner, if the defendant from mistake, inadvertence, or other cause, shall have omitted to insert in his answer any thing material to his defence, the Court, upon his representing the omission either in person or by his vakeel, is to permit the defendant to deliver in a supplemental answer. The plaintiff and defendant are to reply and rejoin in the same manner as on the original answer.

Only one supplemental complaint or answer to be admitted.

But no more than one supplemental complaint, or one supplemental answer is to be received by the Court.—*Extract from Reg.* IV. 1793, *Sect.* 5.

Registers not required to file a rejoinder when the

61*. Whenever a defendant in an original civil suit shall

* *Modified*, vide CHAP. I. Par. 54.

refuse, or neglect to file a rejoinder within the period prescribed for that purpose, it shall not be necessary for the Register (as hitherto required) to enter a rejoinder for him, but the Court before whom the trial may be depending, after recording such refusal or neglect, shall proceed in the trial of the suit, in the same manner as if a rejoinder containing a general denial of the claim had been regularly filed. *Reg.* XXVI. 1814, *Sect.* 6. *Cl.* 2.

defendant may refuse or neglect to do so.

62*. From and after the 1st of February 1815, no supplemental complaint or other supplemental pleadings shall be admitted in any suit, unless the Court, upon a perusal of the pleadings previously filed, and from a consideration of the circumstances alleged by the parties, shall deem it just and proper to admit such supplemental plaint, or other supplemental pleadings to be filed in the suit.—*Reg.* XXVI. 1814, *Sect.* 6, *Cl.* 3.

Rules regarding the admission of supplemental pleadings.

63. The answer, reply, and rejoinder, in suits tried by the Moonsiffs, are not required to be written on stampt paper.—*Reg.* XXIII. 1814, *Sect.* 25, *Cl.* 4.

[This rule is extended to the Courts of Sudder Ameens by Section 73, Regulation XXIII. 1814. The rate of stampt paper to be used in the Sudder Ameen's Court will be found in the Schedules of the Stamp Regulation given in the Appendix.]

The answer, reply, and rejoinder not to be on stampt paper.

64*. Every complaint, answer, reply and rejoinder, is to be written in the Persian or the Bengalee language and character, or in the Hindoostanee language and Nagree character, and no other, and the parties are to be permitted to deliver their pleadings in whichever of those languages and characters they may think proper.—*Extract from Reg.* IV. 1793, *Sect.* 3.

In what language the complaint, answer, reply, and rejoinder are to be written.

65*. All pleadings, petitions, and applications, all deeds, documents and other papers, whether originals, or copies, which are required by the Regulations to be written on stampt paper, are to be written in a fair legible manner, and as they have been hitherto usually prepared, as well as with

Pleadings and other documents on stampt paper how to be written.

regard to the size of the writing, the space between the words, and the number of lines in each page, as to all other matters regarding their engrossment.—*Reg.* XXVI. 1814, *Sect* 5, *Cl.* 2

Rules to be adopted when the whole of the subject matter of a plaint or other pleading cannot be contained in a single sheet of stampt paper.

66*. If the subject matter of any plaint, or petition of appeal cannot, under the rule contained in the preceding clause, be conveniently comprised in a single sheet, or roll of the stampt paper prescribed for such plaint, or petition of appeal, any additional sheets or rolls which may be required for that purpose, shall be of the description of stampt paper specified in Section 17, Regulation I. 1814; in like manner, if the subject matter of any answer, reply, rejoinder, or other pleading, cannot be comprised in a single sheet or roll of the stampt paper prescribed for such pleading, any additional sheets or rolls, which may be required for that purpose, shall be of the description of stampt paper specified in Section 17, Regulation I. 1814.—*Reg.* XXVI 1814, *Sect.* 5, *Cl.* 3.

Fine to be imposed on a breach of the preceding rules.

67*. If a party, or vakeel, or other person shall hereafter file in a Zillah or City Court, in the Provincial Court, or in the Sudder Dewanny Adawlut any plaint, or pleading required to be written on stampt paper, which may not have been prepared in comformity with the foregoing provisions of this Section, the Court is authorized to impose on such party, vakeel, or other person, any fine which they may deem proper, provided that such fine shall in no instance exceed three times the amount or value of the additional stampt paper, which would have been required had the plaint or pleading been drawn up in comformity with the foregoing provisions.—*Reg.* XXVI. 1814, *Sect.* 5, *Cl.* 4

Similar provisions with reference to miscellaneous petitions or applications.

68*. If the subject matter of any miscellaneous petition or application, or of other papers specified in Section 18, Regulation I. 1814, cannot, under the rule contained in Clause Second of this Section be conveniently comprised in a single sheet or roll of the prescribed stampt paper; any additional sheets or rolls, which may be required for that purpose, shall be of the value and description specified in the said Section of the Regulation in question; and if any such petition or

paper, which may not have been prepared in conformity with the foregoing rule, and with the rules contained in Clause Second of this Section, shall be hereafter presented to any of the Courts or officers specified in Section 18, Regulation I. 1814, such Court or officer is hereby authorized to impose a fine on the party or person presenting, under the same limitations as are prescribed in the preceding clause.—*Reg.* XXVI. 1814, *Sect.* 5, *Cl.* 5.

In what cases the Courts may authorize a plaintiff, to file a duplicate of the plaint for the purpose of correcting errors in the valuation of the cause of action.

69*. If during the trial of any regular suit it shall appear that the plaint has been written on stampt paper of a less value than that which ought to have been used under the provisions of Sections 13 and 14, Regulation I. 1814, and the Court shall be of opinion that the error or omission did not arise from any fraudulent motive, or from any design on the part of the plaintiff to evade the provisions of the Regulations, it shall be competent to the Court, either to permit or to direct the plaintiff, or appellant in the suit, to file a duplicate of the plaint on stampt paper of such a value, as may be sufficient to complete the full amount of the stampt duty prescribed by the Sections above-mentioned.

Reg. XXVI. 1814, *Sect.* 6, *Cl* 1.

SECT. XVIII.

First Hearing and Exhibits.

Previous notice to be given by the Courts of the day on which a suit is to be brought to a hearing.

70*. In order that the parties in a suit or their authorized pleaders may be fully prepared to file their exhibits, and to name their witnesses, as well as to furnish any explanations of the case, which may be required, at the time when the suit may first be brought to a hearing, the several Courts are enjoined carefully to attend to those provisions in the regulations which require that eight days previous notice be given to the parties of the day on which the Court may propose to bring the suit to a hearing.—*Reg.* XXVI. 1814, *Sect.* 12, *Cl.* 1.

A notification of the day duly affixed in the cutcherry, shall be a sufficient notice.

71*. For this purpose it shall be sufficient for the Court to affix, in some conspicuous place in the Court room, a notification, specifying the number of the suit, the names of

the parties and of the vakeels respectively entertained in the suit, together with the date on which it may be intended that such suit be brought to a hearing before the Court, and such notice shall be held and considered to be in force until the suit can be brought to a hearing either on the day fixed or any subsequent day.—*Reg.* XXVI. 1814, *Sect.* 12. *Cl.* 2.

Pleadings to be read before exhibits are filed or witnesses summoned.

Exception.

72*. In the trial of original regular suits, as well as in the trial of appeals in such suits, the prescribed pleadings shall be completed and read in open Court, before any exhibits are filed, or witnesses summoned in support of the allegations of either of the parties; unless special and sufficient reason be assigned for taking the immediate deposition of a witness without waiting until the pleadings are completed and read in open Court.—*Reg.* XXVI. 1814, *Sect.* 10, *Cl.* 1.

Courts authorized to fine parties who may be unprepared to file exhibits or to name their witnesses on the day notified for the hearing of the suit.

73*. If either of the parties in a suit, which may be brought to a hearing after due notice shall have been given in the manner above prescribed, shall not be prepared to file their exhibits, or the names of their witnesses, or to furnish any explanations of the case which may be required by the Court, and shall not assign sufficient and satisfactory reason for the delay, the Courts are authorized to impose upon such parties such fine as may appear just and proper: provided that the fine shall in no instance exceed one fourth of the fee paid on the institution of the suit, or of the amount of the stampt duty substituted for such fee. If a similar neglect shall occur a second time after due notice shall have been given of the day fixed for the case being again brought forward, the Courts are authorized either to impose a second fine under the limitation above prescribed, or to proceed as in other cases of default.—*Reg.* XXVI. 1814, *Sect.* 12, *Cl.* 3.

Further penalty on a repetition of similar neglect.

Courts to require any necessary explanations of the case from the parties or their pleaders.

74*. If from the pleadings in the case the points at issue cannot be clearly ascertained, or if from any other reason further explanations may be requisite, the Courts shall on the day on which the suit may be first brought to a hearing, make such inquiries from the parties or their pleaders as

may appear necessary, with a view to ascertain the precise object of the action, and the grounds on which it is maintained, and shall record the result on their proceedings.—*Reg.* XXVI. 1814, *Sect.* 10, *Cl.* 2.

The Courts to record the points necessary to be established by the parties.

75*. The Court shall then consider and record the point or points to be established respectively by the plaintiff or appellant, and by the defendant or respondent, and shall proceed to take the evidence which may be adduced by either party upon such points in the manner prescribed by the rules in force.—*Reg.* XXVI. 1814, *Sect.* 10, *Cl.* 3.

[For the stampt duty on a petition for filing exhibits, vide Schedule B. of the Stamp Regulation in the Appendix.]

And any additional points which may subsequently appear necessary.

And no evidence to be admitted except with regard to the point so recorded.

76*. In like manner if proof shall be required on any other points in the course of the trial, such points shall be recorded on the proceedings, and the proper party shall be called upon for the requisite evidence, and no exhibit shall be filed, or witness summoned, unless expressly declared to be in proof, or refutation of some point, upon which the Court may have directed that evidence should be taken.—*Reg.* XXVI. 1814, *Sect.* 10, *Cl.* 4.

Modifications of Sections 15 and 16, Regulation I. 1814, with regard to the mode of filing exhibits and summoning witnesses.

77*. In modification of Sections 15 and 16, Regulation I. 1814, it is hereby declared, that in lieu of filing a separate derkhaust or application for the admission of each exhibit, and the attendance of each witness, it shall be sufficient to file one or more applications or lists, including any number of exhibits desired to be filed, and the names of any number of witnesses desired to be summoned, provided that such applications or lists be written on one, two, or more sheets or rolls of stampt paper, the total value of which shall correspond in amount with that of the stampt paper which would have been requisite had the application for each exhibit, or witness, been written on separate stampt paper, under the rules contained in Sections 15 and 16, Regulation I. 1814. —*Reg.* XXVI. 1814, *Sect.* 22.

Vakalutnamahs

78*. It is hereby explained that vakalutnamahs and

and certain other documents declared to be not liable to the stamp duty on exhibits.

moktarnamahs, arbitration bonds, security bonds for appearance, as well as security bonds for the eventual payment of costs, or for the performance of a decree, or for staying or enforcing the execution of a decree, which may be executed in any original suit or appeal, are not liable to the stamp duty on exhibits, prescribed by Section 15, Regulation I. 1814. *Reg.* XXVI. 1814, *Sect.* 24

Exhibits and written evidence to be produced in open Court at the trial.

79*. Every exhibit or written evidence (excepting exhibits that may be proved by such absent witnesses as are hereafter mentioned,) is to be produced in open Court at the trial, and if disputed, is to be duly proved by the examination of witnesses sworn as above directed, whose depositions are in the same manner to be reduced into writing and signed. Every exhibit is to be marked with some letter or number to identify it, and the letter or number is to be referred to in the deposition proving it. All exhibits proved by witnesses not present in Court are in the same manner to be marked and referred to in the depositions proving them, and are to be endorsed and minuted as having been read at the time they may have been read in the Court.—If any exhibit or written evidence is offered to a Zillah or City Court in a cause depending before it, and the Judge of the Court shall think it just and proper to reject it, he is to endorse upon it the word "rejected," together with the names of the parties in the cause, and the name of the party who produced the document, the date on which it may be rejected, and his reasons for not admitting it, (which may be written either upon the document rejected, or on a paper to be annexed to it,) and to subscribe his name to the endorsement, and return the document with his reasons so written to the person who produced it.—*Extracts from Reg.* IV. 1793, *Sect.* 6.

Judge how to proceed in the event of his rejecting exhibits or written evidence that may be offered.

80. [The Rules regarding Exhibits in Moonsiffs' Courts CHAP. I. Par. 86, 87, 88, apply to Sudder Ameens' Courts.]

SECT. XIX.

Witnesses.

When the Courts

81*. When the rejoinder has been filed, the Court, either

immediately, or on a fixed day (eight days' notice of which is to be given to the parties) as soon after the pleadings are closed as the business of the Court will permit, is to examine the truth of the complaint or claim by the oaths of the parties, if they mutually consent to that mode of examination, and of the witnesses who may be produced by them if they have any witnesses to produce. To procure the attendance of witnesses, the Zillah and City Courts, on the requisition of the plaintiff or defendant, or their respective vakeels, are to issue a summons to the witnesses whom the parties may name, (provided they be not Hindoo or Mahomedan women of rank or quality, which according to the manners and customs of the country, would render it improper to compel them to appear in a Court of justice,) specifying at whose request the summons may have been issued, and requiring them to appear in the Court on a day to be named in the summons, and there to depose concerning the matter in dispute between the parties. If a witness so summoned shall not attend on the day appointed, or attending, shall refuse to give evidence, or to subscribe his deposition as hereafter required, the Judge, in the first case, if it shall be proved to his satisfaction on oath that the witness was material to the cause, is to issue an order to the nazir to seize and bring the witness before the Court, and is to impose on such witness not having attended, or refusing to give evidence, a fine not exceeding five hundred Rupees, and to commit him to close custody, until he shall consent to give his evidence and sign his deposition. If a witness who may attend pursuant to a summons, shall have incurred any expense in consequence of his being required to appear, the Court is to award to him such sum for his charges as may appear to it reasonable, whether he be examined or not. If the sum so awarded shall not be paid immediately, or secured to the witness to the satisfaction of the Court, the party at whose requisition the witness may be summoned is not only to lose the benefit of his testimony, but the Court, after the decree in the cause shall be passed, is to confine such party until he shall discharge the sum awarded to the witness. The Zillah and City Courts are to administer to parties consenting to be examined on oath, and to witnesses,

are to proceed to the examination of the merits of the suit.

How the attendance of the witnesses of the parties is to be procured, provided they be not women of the rank or cast herein mentioned.

What the summons is to contain.

How witnesses so summoned are to be dealt with, if they shall not appear, or if they shall appear and refuse to give evidence or subscribe their depositions

Court empowered to award to witnesses appearing pursuant to the summons such sum for their expenses as may appear to it reasonable.

Expense to be paid by the party summoning the witnesses.

Consequences attending his not paying such expense as required and the Court how to enforce the payment.

What oaths are to be administered to parties or witnesses.

such oath as may be considered most binding on their consciences, according to their respective religious persuasions.

Cases in which the Courts may dispense with the oaths of witnesses.

But if a witness shall be of a rank or cast, which according to the prejudices of the country would render it improper to compel him to take an oath, the Judge of the Court may dispense with his being sworn, provided he shall subscribe one of the under-mentioned declarations, according as he may be of the Mahomedan or Hindoo persuasion. The depositions of the witnesses who may subscribe the above declarations are to be received as good evidence in the cause, in the same manner as if they had been sworn. The deposition of every witness who may appear in Court, is to be taken vivâ voce in open Court, and (if he be a native) in the Persian, Bengal, or Hindoosthanee language, and is to be reduced into writing in the Bengal, Persian, or Nagree character, according as the witness may desire. The deposition is to be subscribed by the witness with his name or mark.—*Extract from Reg.* IV. 1793, *Sect.* 6.

Depositions of witnesses subscribing the above declarations to be received as good evidence.

Declarations of witnesses to be reduced into writing in the language and character which they may desire.

[For the declaration to be signed by Hindoo and Mahomedan witnesses exempted from taking an oath, vide CHAP. I. Par. 80.—For the mode in which the evidence of women of rank is to be taken, vide CHAP. I. Par. 68.—For the mode in which the evidence of witnesses residing at a distance is to be taken, vide CHAP. I. Par. 78.—For the mode of summoning witnesses employed in Government manufacture, vide CHAP. I. Par. 72 and 73.]

Putwarries to produce their accounts when required by the Courts of Justice.

82*. In like manner, putwarries shall produce all accounts relating to the lands, produce, collections and charges of the village or villages, the accounts of which may be kept by them respectively, and furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice, in any suit that may be depending before the Court; and if any putwarry shall neglect or omit to attend with his accounts, when required, for the adjustment of any matter or dispute depending in Court, the Courts are authorized to order such putwarry to be committed to close custody until he produce the accounts, or shew sufficient cause for not having produced them.—*Reg.* XII. 1817, *Sect.* 24.

Penalty in cases where a putwarry may neglect or omit to attend with his accounts.

[The Rules contained in CHAP. I. Par. 79, 80, 81, 82, 83, are applicable to Sudder Ameens.]

[Vide also, on the subject of *perjury*, CHAP. I. Par 84,85.]

SECT. XX.

Questions of Law.

The decisions of the Courts to be conformable to the Mahomedan law with regard to Mahomedans, and the Hindoo law with regard to Hindoos, in the cases herein specified.

83*. In suits regarding succession, inheritance, marriage, and caste, and all religious usages, and institutions, the Mahomedan Laws with respect to Mahomedans, and the Hindoo Laws with regard to Hindoos, are to be considered as the general rules by which the Judges are to form their decisions. In the respective cases, the Mahomedan and Hindoo law officers of the Court are to attend to expound the law.—*Reg.* IV. 1793, *Sect.* 15.

Courts not to refer matters of facts to any person whomsoever with a view to passing a decree.

84*. The Judges of the Zillah and City Courts, are strictly enjoined not to order or allow of a report of any matters of facts relating to any cause depending before them, with a view to the passing a decree to be made to them by any officer of the Court, or any other person, excepting in cases in which special authority for that purpose may be given to the Courts by any regulation. This rule however is not to be construed to prevent a Judge referring any question arising on the Mahomedan or Hindoo law, to the cauzy or pundit of the Court, respect being had to the law in which each is conversant. When a reference of this nature is deemed necessary, a statement of the facts on which the question of law may arise, is to be made out in writing, and signed by the Judge of the Court, and delivered to the cauzy or pundit for his opinion upon it. A blank is to be left for the answer of the law officer on the same paper on which the question is stated, or on a paper firmly annexed to it. The answer is to be attested with the signature of the law officer, and the dates on which the questions may be stated to him, and the answer may be given, are to be specified—*Reg.* IV. 1793, *Sect.* 16.

Exception to the rule.

The rule not to prevent references to the law officers on points of law.

References to the law officers to be made in writing. What they are to contain.

Answer on what paper to be written and what it is to contain.

By what law the suits herein described are to be decided.

85*. In suits regarding succession, inheritance, marriage, and caste, or other religious usages, or institutions, the Mahomedan laws, with respect to Mahomedans, and the Hin-

doo laws, with regard to Hindoos, are to be considered as the general rules by which the Judges are to form their decisions. In causes in which the plaintiff shall be of a different religious persuasion from the defendant, the decision is to be regulated by the law of the religion of the latter, excepting where Europeans, or other persons not being either Mahomedans or Hindoos, shall be defendants, in which cases, the law of the plaintiff is to be made the rule of decision, in all plaints and actions of a civil nature. The Mahomedan and Hindoo law officers of the Courts, are to attend to expound the law of their respective persuasions, in cases in which recourse may be required to be had to it.—*Reg.* VIII. 1795, *Sect* 3, *Cl.* 2.

Where parties in suits are of different persuasions, the Court is to be guided by the law of the defendant

Exception

[This provision is applicable only to Benares, but a similar provision is enacted for Moonsiffs throughout the Presidency, vide CHAP. I. Par 21.]

86*. By Section 15, of Regulation IV. 1793, and Section 3, Regulation VIII 1795, the Judges of the Zillah and City Courts are directed to decide (in certain suits therein referred to) according to the Mahomedan or Hindoo laws; and the Mahomedan and Hindoo law officers of the Court are required to attend to expound these laws, by which it was evidently intended that the law officers attached to the several Civil Courts, should expound the law in the cases referred to in the above Sections; and that the Judges should be guided by such exposition in all common cases wherein they might have no reason to doubt the accuracy of it: but, in particular cases, wherein they might entertain such doubt, either from the objections of the parties, founded on other law opinions exhibited by them; or from a reference to the known books of Mahomedan or Hindoo law; or, from whatever cause, if the Judge or Judges trying the suit should consider the exposition given by their immediate law officer insufficient; it was not meant to preclude them from obtaining a further exposition from the law officers of the superior Courts by a reference of the case to them through the Judges of these Courts, as has been the occasional practice in some of the Courts; and is now declared to be at the discretion of all the Zillah, City, and Provincial Courts, when-

Explanation of Section 15, Regulation IV. 1793, and Section 3, Regulation VIII. 1795.

Intended that the law officers of the several Civil Courts should expound the law, and that the Judges should be guided by their exposition in common cases.

But not in particular cases wherein they might have reason to doubt the accuracy of such exposition

In such cases, a further exposition of the law from the officers of the superior Courts not meant to be precluded

ever they may deem such reference necessary for the purposes of justice. It is at the same time to be observed that the above Courts are not authorized to refer any point of law to individuals not acting in a public capacity; and to whom consequently no responsibility attaches; although there is no objection to any of the Courts receiving law opinions, quoting or referring to authorities, tendered to them by the parties during the trial of the suit in support of their claims, and if the Courts shall deem it proper so to do, referring them to their own law officers or those of the superior Courts, to enable them to determine on their due weight and application to the case.—*Reg.* II. 1798, *Sect.* 4.

But the Courts are not authorized to refer any point of law to individuals not acting in public capacity.

Though they may receive law opinions tendered to them by the parties, and if deemed proper, refer them to their law officers, or those of the superior Courts.

SECT. XXI.

Particular Investigations.

87. In the trial of regular suits by the Zillah or City Judges, or in miscellaneous cases, whenever the adjustment of accounts regarding the execution of decrees, and mercantile or revenue transactions, or the investigation of disputes between landlord and tenant, or of other special matters of account, fact, or usage, may be requisite, and such adjustment or investigation, if conducted by the Judge himself, would occupy a larger portion of his time than could be conveniently devoted to it; the Judge is hereby authorized to direct any of the Sudder Ameens under his jurisdiction to make such adjustment or investigation.—*Reg.* XXIII. 1814, *Sect.* 76, *Cl.* 1.

Matters of account and of fact and of usage may be referred to the Sudder Ameens for adjustment, investigation and report.

88. The Judge shall in these cases furnish to the Sudder Ameen such part of the proceedings and such detailed instructions, as may appear necessary for his information and guidance, and shall direct the parties, or their vakeels, or authorized agents to attend upon the Sudder Ameen, during the adjustment or investigation. *Reg.* XXIII. 1814, *Sect.* 76, *Cl.* 2.

Instructions to be furnished to the Sudder Ameens on such references.

89. The instructions must distinctly specify, whether the Sudder Ameen is merely to transmit the proceedings, which he may hold on the enquiry, or also to report his own opi-

What the instructions are to specify.

nion on the point referred for his investigation.—*Reg.* XXIII. 1814, *Sect.* 76, *Cl.* 3.

The proceedings of the Sudder Ameens on such references to be received as evidence.

90. The proceedings of the Sudder Ameen are to be received in evidence in the case unless the Judge may have reason to be dissatisfied with them, in which case he will make such further enquiry, as may be requisite, and will pass such ultimate judgment or order, as may appear to him to be right and proper.—*Reg.* XXIII. 1814, *Sect.* 76, *Cl.* 4.

The whole of clauses, 2, 3, 4, 5, and 6, of Section 76, Regulation XXIII 1814, still in force except the 5th, which is hereby rescinded.

91. By the First Clause of Section 76, Regulation XXIII. 1814, it is provided, that "in the trial of regular suits by the "Zillah or City Judges, or in miscellaneous causes, when-"ever the adjustment of accounts regarding the execution of "decrees, and mercantile or revenue transactions, or the in-"vestigation of disputes between landlord and tenant, or of "other special matters of account, fact, or usage, may be re-"quisite; and such adjustment or investigation, if conducted "by the Judge himself, would occupy a larger portion of his "time than could be conveniently devoted to it, the Judge is "hereby authorized to direct any of the Sudder Ameens un-"der his jurisdiction to make such adjustment, or investiga-tion." The Second, Third, Fourth, Fifth and Sixth Clauses of the Section above-mentioned, contain further provisions relative to the cases therein stated; and the whole of these Clauses shall be still in force, except the Fifth; which in consequence of the salary to be hereafter received by Sudder Ameens from Government, is hereby rescinded.

Proviso.

Provided, however, that if any necessary expense be incurred in making the enquiries or adjustments referred to, it shall be competent to the Judge on the completion of the enquiry or adjustment, to order payment of the amount of such necessary expense by one or both of the parties in the case as may appear just and proper.—*Reg.* XIII. 1824, *Sect.* 5.

SECT. XXII.

General Trial.

The Sudder A-

92. The Sudder Ameens are themselves to investigate

the suits referred to them in a public cutcherry or court room, and are not to allow their officers, servants, or dependants, or any other person to interfere therein.—*Reg.* XXIII. 1814, *Sect.* 71.

Ameens are themselves to investigate suits referred to them

[The Rules in CHAP I. Par. 63, 67, are also applicable to Sudder Ameens.]

93*. Whenever any property may be attached by order of a Zillah or City Court, under the provisions contained in the foregoing Section, the trial of the cause shall be proceeded on, and brought to a conclusion, as speedily as possible, without regard to the order of time, with respect to other depending causes, in which it may have been instituted. The attachment shall also be taken off on the delivery of sufficient malzaminy security at any time previous to the decision of the cause in the Zillah or City Court.—*Reg.* II. 1806, *Sect.* 6.

Cases, in which an attachment of property may have taken place, to be tried and determined as speedily as possible without regard to their number on the file of depending causes.

Attachment to be taken off at any time previous to the decision of the cause, if sufficient malzaminy security be tendered.

SECT. XXIII.

Decision and Copies of Decrees.

94. [All the rules in Section 23, CHAP. I. of this work are applicable to Sudder Ameens, in addition to which the following Rules enacted for the Zillah and City Judges appear to apply.]

95*. If a plaintiff shall at any time neglect to proceed in his suit for six weeks, the suit is to be dismissed, unless he can show good and sufficient cause to the Court for not having proceeded in it, and the Court is to award to the defendant the whole or such part of the costs as he may have incurred in the suit, according as it may deem equitable. The Judge is to record upon the proceedings his reasons at large for dismissing the suit of a plaintiff, or allowing him to prosecute it after he shall have neglected to proceed in it for six weeks.—*Reg.* IV. 1793, *Sect.* 10.

Suits of plaintiffs who neglect to proceed in them for six weeks to be dismissed, unless they can shew good cause for not having proceeded.

Judge to record upon the proceedings his reasons for the exercise of powers vested in him by this Section.

96*. The Judges of the Zillah and City Courts are to insert in their decrees the names of the witnesses whose depositions may have been taken, the title of every exhibit read in

What the decrees of the Courts are to contain.

the cause, and the amount of the annual produce of the land, or the sum of money, or the value of the property or thing decreed. The decree is to be sealed with the seal of the Court, and signed by the Judge, and dated on the day on which it may be passed. The Judge, or the Register, either at the time of making the decree, or on a subsequent day (of which the Court is to give notice to the parties or their vakeels) within ten days after passing the decree, is to deliver or tender in open Court, to each party, or their vakeels, a true copy of the decree authenticated as above directed, with an endorsement made upon it by the Register of the date on which the copies may be delivered, and an entry of the delivery or tender, with the date on which it may be made, is to be inserted by the Register in the margin of the record opposite to the decree. If either of the parties, or their vakeels, shall not be present at the time the decree may be passed, and the prescribed copy of it may be produced in the Court to be delivered, or shall not attend on the subsequent day which may be fixed for the delivery of the copies, after previous notice of the day shall have been given to them, or shall refuse to take the copy of the decree when tendered as above directed, the copy is to be deposited amongst the records of the Court, and the cause of the non-delivery of it to the party is to be noted upon it in writing, and in the margin of the record opposite to the decree, under the official signature of the Register.—*Reg.* IV. 1793, *Sect.* 26.

To be sealed with the seal of the Court, and signed by the Judge, and dated on the day on which they may be passed.

Judge or Register within ten days to tender in open Court a copy of the decree to the parties on a day of which previous notice is to be given.

Register to endorse on the decree the date on which it may be delivered or tendered.

Courts how to proceed in the event of parties or their vakeels not being in attendance to receive a copy of the decree or of their refusing to take it.

All legal expenses and costs to be included in the decree and to be charged to the parties in such mode as may appear equitable.

97*. The Courts of civil judicature are to insert in their decrees all sums paid or payable by the parties under the regulations, on account of fees or stamp duties, as well as on account of compensation for the expense of witnesses, and of subsistence money to peons employed in serving the process of the Courts, and of all other costs and expenses of the suit. Such costs and expenses shall be ultimately charged to the parties cast, or to the parties respectively, in such proportions as the Court may deem equitable.—*Reg.* XXVII. 1814, *Sect.* 27.

Parties requiring

98*. For the purpose of obtaining an authenticated copy

of the decree in such cases the party desiring it shall furnish to the Court by whom the decision may have been passed, one, two or more sheets or rolls of the stampt paper prescribed in Section 19, Regulation I. 1814, as may be necessary for transcribing the decree.—*Reg.* XXVI. 1814, *Sect.* 8, *Cl.* 8.

a copy of a decree to furnish the requisite stampt paper.

99*. When such stampt paper shall be furnished, the serishtedar or such other principal officer, as may be anthorized by the Court to discharge that duty, shall endorse on it the date of its being furnished, the name of the party on whose account it may be presented, and the number of the suit to which it may be intended to be applicable and shall grant to the party a corresponding receipt for the same on unstampt paper; the copy of decree shall then be prepared and duly authenticated, and shall be delivered or tendered, to the party by whom the stampt paper may have been furnished, or to his vakeel in open Court, and the date of the delivery or tender of such copy shall be also endorsed on the copy.—*Reg.* XXVI. 1814, *Sect.* 8, *Cl.* 9

Courts how to proceed when such stampt paper may be furnished.

100*. In explanation of Clause Second, Section 5, Regulation I. 1814, it is hereby enacted that paper of European manufacture, bearing a stamp of the value specified in Section 19, Regulation I. 1814, shall be used for all copies of decrees in regular or summary suits, which may be furnished to the parties by the Judges, assistant Judges, or Register of the Zillah and City Courts, by the Provincial Courts and by the Sudder Dewanny Adawlut.—*Reg.* XXVI. 1814, *Sect.* 16, *Cl.* 1. Vide Appendix.

What stampt paper to be used for copies of decrees furnished to parties.

101*. Copies of decrees, which may be prepared by those Courts, to remain with their own records, shall be written on stampt paper of European manufacture, of the same size and description as that, which may be stampt for the copies of decrees to be delivered to the parties.—*Reg.* XXVI. 1814, *Sect.* 16, *Cl.* 2.

On what paper copies of decrees for record are to be written

102*. Copies of proceedings and orders, accounts, statements or other papers made for records of Court, or for

Copies of papers made for records or official use not re-

quired to be written on stampt paper.

transmission to other Courts, or public offices, may be written, as heretofore on unstampt paper, except in cases in which it may be otherwise specifically provided for by the regulations.—*Reg.* XXVI. 1814, *Sect.* 16, *Cl.* 3.

Copies which individuals may be authorized to make for their own use need not be written on stampt paper, but shall not be authenticated by any official seal or signature.

103*. It is hereby declared, that the provisions of Regulation I. 1814, are not intended to preclude individuals from making for their private use and at their own expense, copies of judicial or revenue papers, with the permission of the Court, Collector, or other public officer having charge thereof, on any paper which they may prefer; but if such copies be not made on stampt paper, they shall not be authenticated by the seal or signature of any Court, Collector, or other public officer, and shall not be received as evidence in any Court of justice, or in any public office whatever.—*Reg.* XXVI. 1814, *Sect.* 16, *Cl.* 4.

Zillah and City Courts to furnish copies of certain decrees by which the right to, or the property in, any lands exempted from the payment of public revenue may be altered.

104*. The Judges of the Zillah and City Courts in the four provinces shall furnish the Collectors of the districts in which the land may be situated, and the Board of Revenue, with a copy of every decree in suits between individuals, which they may pass, or which may be sent to them by superior Courts to enforce, by which the right in, or possession of, any lands held exempt from the payment of public revenue, under whatever description of grant the same may be so held, may be affected, in order that the Collectors may be enabled to make the necessary entries of the alterations in such right or possession to be inserted in the quinquennial registers of lands held exempt from the payment of revenue directed to be kept by Regulations XIX. and XXXVII. 1793, and XLI. and XLII 1795. The copies of such decrees shall be transmitted by the Judge within twenty days after the same may be passed or received by him.—*Reg.* LVIII. 1795, *Sect.* 3.

Of what decrees copies are to be transmitted to the Collectors and the Board of Revenue under Section 9, Regulation IV. 1793, and Section 4,

105. The decrees regarding malguzarry land which the Judges of the Zillah and City Courts in the four provinces are directed by Section 9, Regulation IV. 1793, and Section 4, Regulation VIII. 1795, to transmit to the Collector of the Zillah, and to the Board of Revenue, are hereby de-

clared to be such decrees only as affect the proprietary right in, or possession of, the land.—*Reg.* LVIII. 1795, *Sect.* 4. Regulation VIII. 1795.

106*. When the parties have been heard, and the witnesses on both sides examined, and the exhibits received and considered, the Judge is to give judgment according to justice and right, and is to order costs to be paid to the party in whose favour the decree may be made. The Court is then to cause the decree to be executed, if it be for a zemindarry, independent or dependant talook, or other estate or real property by causing possession of the property to be delivered to the person to whom it may be decreed; if it be for personal property or a sum of money, by causing the specific thing to be delivered or the value of it, or the sum of money decreed, to be levied by public sale by auction of a sufficient portion, or, if requisite for the satisfaction of the decree, the whole of the lands, houses, and all other effects, either real or personal, belonging to the party against whom the judgment may have been given, or by the attachment of his person, or where it may be necessary both by the sale of his property and effects, and the attachment of his person.—*Reg.* IV. 1793, *Sect.* 7. When the Court is to give judgment

Decree of the Court how to be executed.

SECT. XXIV.

Execution of Decrees.

[Vide Par. 106*.]

107*. Any party who may be desirous of obtaining the execution of a decree passed subsequently to the 1st of February 1815, shall appear either in person or by an authorized pleader before the Court by whom such decree may have been passed, or if the decree shall have been passed by a Sudder Ameen, before the Zillah or City Judge, and shall present a petition written on the stampt paper prescribed in Section 18, Regulation I. 1814, praying for the execution of the decree.—*Reg.* XXVI. 1814, *Sect.* 15, *Cl.* 5. Parties desiring to have their decrees enforced to present a petition to the Court.

108*. The petition shall state the number of the suit, the names of the parties, the date and substance of the decree, What the petition is to contain.

whether any appeal has been preferred or admitted from the decision, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; it shall further contain a statement of the specific amount due to the petitioner under the decree, whether on account of costs of suit, or otherwise, and the name of the individual, or individuals, against whom the enforcement of the decree is solicited.—*Reg.* XXVI. 1814, *Sect.* 15, *Cl.* 6.

The Court how to proceed in the execution of the decrees.

109*. The Court, after causing the purport of the petition to be compared with the decree contained in the original record of the suit, shall proceed to execute the same in conformity with the provisions which are now in force or which may be hereafter enacted.—*Reg.* XXVI. 1814, *Sect.* 15, *Cl.* 7.

In certain cases specified, the Courts to make previous enquiries and to pass such orders as may appear just and proper with regard to the execution of decrees.

110*. Provided however, that if the suit shall have been tried exparte, or that an interval of more than one year shall have elapsed between the date of the decree, and the application for its execution; or that the enforcement of the decree shall be solicited against individuals being heirs or representatives of the original parties in the suit, or against one only of several individuals equally affected by the decree, or if there shall appear reason to believe that the matter in dispute has been adjusted by the parties subsequently to the decree, either by the voluntary surrender of the thing adjudged, or by the payment of the sum decreed either in whole or in part, by kistbundy or otherwise, it shall be competent to the Court, instead of proceeding to the immediate enforcement of the decree, to issue a notice to the party against whom execution may be sued out, requiring him to shew cause within a limited period to be fixed by the Court, why the decree should not be executed against him. If upon such notice the party shall not attend in person or by vakeel, or shall not shew sufficient cause to the satisfaction of the Court why the decree should not be forthwith executed, the Court will cause the judgment to be satisfied according to the rules in force. If the party shall attend in person or by vakeel, and shall offer any objection

to the enforcement of the decree, the Court shall issue such order after a due consideration of the circumstances of each case, as may appear just and proper.—*Reg.* XXVI. 1814, *Sect.* 15, *Cl.* 8.

Provisions for receiving costs due to Government and vakeel's fees, and for executing decrees in pauper suits.

111*. The preceding rules shall not be construed to prevent the Courts from issuing process of execution, for the purpose of recovering any fees or costs which may be due to Government, or any fees due to vakeels by a party in a suit, whether decided before or after the 1st of February 1815. In such cases, as well as in suits in which a party may have been allowed to plead in formâ pauperis; the Courts shall proceed without any application from the parties to enforce execution of the judgment so far as relates to the recovery of the amount of fees, or costs, due to Government, or to pleaders in the suit.—*Reg.* XXVI. 1814, *Sect.* 15. *Cl.* 9.

Petitions for the execution of Civil Decrees to be presented as heretofore.

Modifications of rules in force which require that decrees passed by Sudder Ameens and Moonsiffs be executed under the orders of a City or Zillah Judge.

112. Petitions for the execution of decrees in Civil suits shall be presented as heretofore in the manner prescribed by the several Clauses of Section 15, Regulation XXVI. 1814, (Par. 107—111,) but such parts of the Regulations as require that decrees passed in Civil suits by the Sudder Ameens, or by Moonsiffs, shall be executed or enforced under the special orders of the Zillah and City Judges, are declared subject to the following modifications.—*Reg.* II. 1821, *Sect.* 7. *Cl.* 1.

In cases when applications are referred by the Judge to the Register for the execution of Sudder Ameens and Moonsiffs' decrees, appeals from the Register's orders allowed.

113. Whenever the miscellaneous business depending in a Zillah or City Court would occupy a larger portion of time than the Judge can conveniently devote to it, he is authorized to refer to the Registers or Sudder Ameens all applications for the execution of the decrees passed by the Sudder Ameens or Moonsiffs. In these cases, an appeal from the orders of the Register or Sudder Ameens will lie in the first instance, to the Judges, and specially to the Provincial Court.—*Reg.* II. 1821, *Sect.* 7, *Cl.* 2.

By what officers the Registers and Sudder Ameens' or-

114. All orders issued by Registers or Sudder Ameens in cases so referred to them shall be executed by the officers

ders are to be executed on such occasions.

of the Zillah and City Courts, under the rules prescribed in the general Regulations for the execution of decrees.—*Reg.* II. 1821, *Sect.* 7, *Cl.* 3.

Clause 8, Section 15, Regulation XXVI. 1814, explained, and the several Courts empowered to require security for making good decrees or in failure thereof to cause an attachment of property.

115*. In explanation of the Eighth Clause of Section 15, Regulation XXVI. 1814, (Par. 110,) which provides that, in certain cases "it shall be competent to the Court applied to, for execution of a decree, instead of proceeding to the immediate enforcement of the decree, to issue a notice to the party against whom execution may be sued out, requiring him to shew cause within a limited period to be fixed by the Court, why the decree should not be executed against him," it is hereby declared that the above provision was meant to be imperative in the case referred to; and not to leave a discretion with the Court. At the same time, with a view to guard against abuses, it is now further provided, that, whenever it may be shewn, by satisfactory evidence, that the party against whom the decree was passed, or in the event of his decease, his legal representative who may have become answerable for the fulfilment of it, is about to remove, or dispose of, the property from which the judgment should be satisfied, the Court, proceeding, as directed in the Eighth Clause of Section 15, Regulation XXVI. 1814, shall be authorized to require security in such amount as may appear sufficient for making good the decree; and in the event of such security not being given, to cause an attachment of property; as provided for, in similar cases, whilst a suit is depending by Section 5, Regulation II. 1806. (CHAP. I. Par. 55.)—*Reg.* VII. 1825, *Sect.* 7.

Explanation of a doubt whether the Civil Courts are competent to provide for the payment of money adjudged by instalments.

116*. Doubts having been entertained whether any of the established City Courts are competent to provide, in their decrees, for the payment by instalments of money adjudged by them, or to make such provision, in cases of indigence, at any period after passing their decrees; it is hereby declared, that the Civil Courts in general are restricted from granting indulgence of time, in the satisfaction of a final judgment, when property, from which such judgment can be satisfied, (whether belonging to the party against whom the judgment is given, or to his surety or sureties for the

performance of such judgment) may be forthcoming, unless the party in whose favour the decree is passed, shall consent to wave his right of immediate enforcement, under an engagement for gradual payment, or otherwise, or unless a short postponement of the sale of property shall under any particular circumstances, appear just and equitable. But when no property may be pointed out from which the judgment can be enforced, and the party against whom it is passed, or his surety, if he have given any, may be willing to engage (under sufficient malzaminy or hazirzaminy security, as one or the other may be tendered or required) for the liquidation of the amount due, by instalments, within such period, as the Court passing the final decree or intrusted with the execution of it, shall deem reasonable and proper, it shall be competent to the Court, by which the final judgment is given, or to a Zillah or City Court enforcing the decision of a native commissioner, and to any superior Court revising the proceedings of an inferior Court, to accept the engagement so offered, and to cause execution of the decree in conformity therewith so long as the conditions of it shall be duly fulfilled. In such cases, if the person delivering the accepted engagement shall have been taken into custody, he shall be immediately discharged, and shall not be liable to further arrest in execution of the judgment to which such engagement may refer, except on failure to perform the terms of it, nor shall any interest be chargeable in such instances beyond what may be provided for in the engagement.—*Reg.* II. 1806, *Sect.* 10.

The Civil Courts may require the aid of the Collectors in the enforcement of decrees relating to malguzarry land, whenever it may appear conducive to their speedy and complete execution.

117*. By the existing regulations, the Judges of the Zillah and City Courts are required to transmit to the Collectors of their respective jurisdictions, (as well as to the Board of Revenue) copies of all decrees which may be passed by them or by their Registers; or which may be sent to them for enforcement by the superior Courts, affecting the proprietary right to, or possession of, any lands paying to Government, or held exempt from the payment of revenue, for the purpose of enabling them to make the requisite entries and alterations in the periodical registers of land. The Judges of the several Civil Courts are further hereby authorized to re-

quire the aid of the local Collector, in the enforcement of all such decrees whenever it may appear conducive to their speedy and complete execution; whether by giving possession to the parties entitled thereto, or by the adjustment of a Waselaut account, or otherwise.—*Reg.* VII. 1825, *Sect.* 6.

Courts of justice to direct payment of the expenses of divisions in decrees awarding the proprietary right in disputed cases

118*. Whenever the Courts of justice may pass a decree awarding to any person the proprietary right in a portion of an estate paying revenue to Government (whether fractional or consisting of specific lands) and may issue a precept to the Collector requiring him to divide the estate and (provided it be not held khass, or let in farm by Government) to put the parties in possession of the shares to which they may be entitled under the decree, they shall make it a general rule to direct at the same time that the party or parties who may have withheld the right so decreed, shall defray the whole of the expense which may be incurred in the subsequent process of dividing, separating, and giving possession of, and apportioning the public revenue on the portion of the estate or lands so decreed. Provided however, that if any special reasons shall appear for a deviation from this general rule, the Courts shall be at liberty to direct the expense in question to be defrayed by all, or any of the parties to the decree, in such portions as the Court passing the decree may, from a consideration of the particular circumstances of the case, deem equitable. Copies of all orders which the Courts may pass under this Section, are invariably to be transmitted to the Collector for his guidance, together with the precept which the Court may issue to him, requiring him to divide the estate and to put the parties in possession of the shares to which they may be entitled under the decree.—*Reg.* XIX. 1814, *Sect.* 5.

[Respecting decrees for sums within 64 Rs. vide CHAP. I. Par. 104.]

SECT. XXV.

Diet to Defendants.

Monthly allowance to be paid to defendants confined

119*. If the defendant in a suit in a Zillah or City Court shall be committed to close custody at the instance of the

plaintiff, either whilst the suit is depending, or after the decree shall have been passed, the Judge at the time of the commitment of the defendant, is to make an order on the plaintiff for the payment of whatever monthly allowance he may think reasonable for the subsistence of the defendant, upon a consideration of his rank and situation in life, and the circumstances of the plaintiff. The allowance is not to exceed four annas, nor to be less than one anna per day, and is to be made payable to the nazir who is to give monthly receipts for it to the plaintiff dated on the day on which the money may be paid. The first payment is to be made immediately upon the confinement of the defendant, and every subsequent payment at the expiration of the next and following months, calculating from the day on which the defendant may be confined. If the plaintiff shall neglect or refuse to pay the prescribed allowance for the space of one month after any payment may become due, the nazir is to report the omission or refusal in writing under his signature to the Judge. Upon receipt of the report, the Judge is to cause it to be notified to the plaintiff by a writing (in the Persian and Bengal languages, if the Court be situated in Bengal or Orissa, or in the Persian language and the Hindoostanee language and the Nagree character, if it be in Behar,) to be fixed up in some conspicuous place in the Court room, that if he shall not within one month after the date of the notice, pay the sums in arrear, together with the allowance for one month in advance, the Court will release the defendant. If the plaintiff shall not make the payments required by the notice, the Court is accordingly to discharge the defendant from custody. Plaintiffs are not to be required to pay any allowance to defendants who may be committed to custody for disobedience to an order of the Court.—*Reg.* IV. 1793, *Sect.* 8.

at the instance of plaintiffs.

To whom and when the allowance is to be payable.

Nazir to report to the Judge in the event of the plaintiff omitting or refusing to pay the allowance for one month.

Judge how to proceed upon such report.

Plaintiffs not to pay any allowance to defendants confined for disobedience to the orders of the Court.

120*. A question having arisen, whether the amount paid for the subsistence of persons in confinement, under judgments of the Civil Courts, as prescribed by Section 8, Regulation IV. 1793, and Section 10, Regulation III. 1803, is to be repaid by the party confined, on his release; it is hereby explained that such repayment is to be made, in common

Explanation that the amount paid for the subsistence of persons in confinement in satisfaction of the judgments of the Civil Courts, is to be reimbursed in common with other costs of suit

when there may be any property forthcoming.

But persons are not to be detained for the reimbursement of the subsistence money only, when no property can be pointed out.

with the reimbursement of other costs of suit and process, when any property may be forthcoming from which the amount can be levied. But when no property can be pointed out for the reimbursement of the subsistence money paid to prisoners, they shall not be detained in confinement for the repayment of such money only.—*Reg.* II. 1806, *Sect.* 12.

SECT. XXVI.

Sales of Land in satisfaction of Decrees.

Copy and translate of decrees, to be enforced by the sale of malguzarry lands, to be transmitted to the Board of Revenue.

121*. When a Court of Civil judicature shall have occasion to have recourse to the sale of lands paying revenue to Government, in satisfaction of a decree, the Court by which the decree is to be enforced, is to transmit a copy of the decree, without any other part of the proceedings, and a translate of it in English, to the Board of Revenue.—*Reg.* XLV. 1793, *Sect.* 2.

Publication of the sale, where to be made, how long to be fixed up, and what it is to contain.

122*. Previous to any sale of land taking place, a publication is to be made in the Persian and Bengalee languages, if the lands shall be situated in Bengal or Orissa, or, in the Persian language and in the Hindoostanee language and Nagree character, if the lands shall lie in Behar, specifying the jumma at which the lands or the several lots of them, if they are ordered to be sold in two or more lots, are to be disposed of, and the place, date, and hour of the day, fixed for the sale, and the proportion of revenue payable on account of the year in which the sale of the lands may take place, for which the purchaser is to be responsible, or, if the exact proportion cannot be ascertained, the rules by which the amount of it is to be adjusted. The publication is to be fixed up in some conspicuous place in the Court room of the Dewanny Adawlut of the Zillah, the office of the Collector, the principal town or village in the lands to be sold, and the office of the Secretary to the Board of Revenue. The publication is to be fixed up at the several places abovementioned, for a term not less than one month before the sale takes place. The other conditions of sale contained in Sections 13, and 14, as well as any other stipulations that may be made, are to be fixed up in a conspicuous part of the

Other conditions of sale to be fixed up in the room in which the sale is to take place.

room in which the sale may be directed to take place, on the day of sale, and during the three days preceding it.—*Reg.* XLV. 1793, *Sect.* 12.

Courts empowered to countermand or postpone sales of lands, ordered to be made in satisfaction of decrees.

123*. Where a sale of the lands of any person shall have been ordered to take place in satisfaction of a decree, the Court by which the decree may have been passed, or to which the enforcing of it may be committed, is empowered in the event of the amount of the decree being discharged, or for other cause that may appear to them sufficient, to countermand or postpone the sale, by issuing a precept to that effect to the Collector, if the lands shall have been ordered to be sold by the Collector, or by an address to the Board of Revenue, if the lands shall have been directed to be sold by them, in which precept or address the Court shall state their reasons for ordering the sale to be countermanded or postponed, and in the latter case, if it shall appear to them proper so to do they may prescribe a date for the sale of the lands. The Board of Revenue and the Collector are to conform to the requisitions of such precepts or addresses from the Courts for countermanding or suspending the sale of lands.—*Reg.* XLV. 1793, *Sect.* 16.

Rules in the preceding Sections to be applied to lands held exempt from the payment of revenue to Government, as far as they are applicable.

Transfer of such exempted lands by public sale in liquidation of decrees not to affect the rights or claims of Government.

124*. The rules in the preceding Sections are to be considered applicable to lands held exempt from the payment of revenue to Government as far as they may be applicable to the circumstances thereof, with this addition, that the purchaser of such exempted lands is to be considered as having succeeded only to the rights of the former proprietor, and that the transfer is not to bar any claims of Government for the recovery of the public dues from such lands under Regulations XIX. and XXXVII. 1793, or any other Regulation that may be hereafter enacted.—*Reg.* XLV. 1793, *Sect.* 17.

All Judicial authorities who may have ordered sales of lands by Revenue officers empowered to declare such sales null and void and to order a re-sale, if on summary

125*. A doubt having been entertained whether public sales of land, made by the Revenue officers of Government, in satisfaction of decrees or other process of the Courts of judicature, can be summarily set aside, without a regular civil suit, or proof of irregularity in publishing and conduct-

enquiry, any material irregularity be satisfactorily established.

ing the sale, or otherwise; it is hereby declared that the Zillah or City Court or other judicial authority, who may have ordered the sale in such cases, shall be competent to declare the same null and void, and to order a resale in the mode prescribed by the Regulations, if, on summary enquiry, any material deviation therefrom, and consequent irregularity in the sale, be satisfactorily established; provided that a petition containing a circumstantial statement of such irregularity, and written on the stampt papers required for miscellaneous petitions in the Zillah and City Courts, be presented to the Court by which the sale may have been ordered, within a month after the sale. In such cases the Court directing the sale to be set aside shall farther be competent to direct a return of the purchase money, with or without interest, as provided for in similar cases, by the Fourth Clause of Section 3, of this Regulation. (Par. 135.)—*Reg.* VII. 1825, *Sect.* 5, *Cl.* 1.

Proviso.

In certain cases the purchase money to be returned with or without interest.

Summary decisions passed under this section, appealable to the Provincial Courts.

126*. The summary decisions passed under this Section shall be open to a summary appeal to the Provincial Courts, under the general rules for such appeals.—*Reg.* VII. 1825, *Sect.* 5, *Cl.* 2.

Lands not liable to be sold on account of decrees of the Civil Courts or otherwise, while under attachment.

127*. Such lands or estates [viz. the lands and estates of state prisoners attached by Government] shall not be liable to be sold in execution of the decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment. —*Reg.* III. 1818, *Sect.* 10, *Cl.* 2.

The Government will make such arrangement as may be proper, for the satisfaction of the decrees of the Civil Courts in such instances.

128*. In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts —*Reg.* III. 1818, *Sect.* 10, *Cl.* 3.

SECT. XXVII.

Sale of other Property.

Parts of the Regulations in force relating to the sale of

129*. Such parts of Regulations XLV. 1793, XX. 1795, and XXVI. 1803, or of any other Regulation in force, rela-

tive to the sale of lands in satisfaction of decrees of the Courts of Civil Judicature, as require that sales of landed property, in execution of such decrees, shall be made by the Collectors of the public revenue, or other officers of Government in the Revenue Department, are hereby explained and modified as follows:—*Reg.* VII. 1825, *Sect.* 2, *Cl.* 1.

Lands in satisfaction of decrees of Courts explained and modified.

130*. The Rules contained in the Regulations above-mentioned shall not be considered applicable to the sale of houses, gardens, orchards, and small portions of land held exempt from the public assessment, the sale of which, when requisite in execution of any decree, or other judicial process, shall be made, as heretofore by order of the Court, or officer, empowered to enforce the decree or process, without application to the Board of Revenue, or the Collector of the district, or other officer in the Revenue Department.—*Reg.* VII. 1825, *Sect.* 2, *Cl* 2.

Sales of houses, gardens, orchards, and small portions of lakheraje land in execution of decrees to be conducted under the authority of the Judicial officers.

131*. The Judge, Register, or other officer, empowered under the Regulations, to enforce a decree or other judicial process, by a sale of property, is authorized to cause the public sale of any house, garden, orchard, or small portion of lakheraje land, which may be liable to be sold in execution of the decree or other process, in like manner, as he is authorized to cause the public sale of any personal property liable to be sold in execution of the same.—*Reg.* VII. 1825, *Sect.* 2, *Cl.* 3.

The sale of landed property under a judicial process to be conducted under the same forms as sales of personal property.

132. The Judges and Registers of the Zillah and City Courts, who usually employ the nazirs of those Courts of the Sudder Ameens, at the station of the Judge and Register, and local Moonsiffs in other parts of their jurisdiction, to conduct the public sale of personal property in execution of decrees, or other judicial process, are hereby authorized to employ the same officers, when it may appear expedient in the public sale of houses, gardens, orchards, or small portions of lakheraje land, under the provisions of this Regulation.—*Reg.* VII. 1825, *Sect.* 3, *Cl.* 1.

The same officers to be employed in the sale of houses &c. as in the sale of landed property.

133*. In all cases of attachment and intended sale, whe- A proclamation

to be issued thirty days previously to the sale of such property.

ther of personal property, or of the landed property above described, in execution of any decree, or other judicial process, a proclamation of the intended sale, with particulars of the time and place of sale, of the property to be sold, and of the amount due, for the recovery of which the sale is ordered, shall be made, in the current language of the country, for at least thirty days, before the appointed day of sale, exclusive of the day of sale, and the date on which the proclamation may be ordered. Such proclamation shall be made, in the usual mode, by beat of drum, on the spot where the property is attached; and a written notification to the same effect shall also be affixed in some conspicuous place, within the village or town, in which the attachment may take place, as well as in the cutcherry of the local Moonsiffs, and at the cutcherries of the Collector of the district, and the Zillah Judge or Register who may have ordered the sale. When the sale is to be made by a Sudder Ameen, the notification shall also be affixed in the cutcherry of such Sudder Ameen.—*Reg.* VII. 1825, *Sect.* 3, *Cl.* 2.

How such proclamation is to be made and notified.

The usual processes for attachment and sale may be issued simultaneously.

134*. The usual processes for attachment and sale, in such cases, may either be issued successively, or simultaneously, as the Judge, Register, or other judicial officer, directing the sale, may, in each instance think proper with reference to the circumstances of the case. But no sale shall in any instance, take place without a previous proclamation, for the period specified in the preceding clause, and any material irregularity in the sale which may be established, on a summary enquiry, to the satisfaction of the Judge, Register, or other officer, by whom the sale may have been ordered, shall be sufficient to invalidate the sale, provided, that a petition, written on the stampt paper required for miscellaneous petitions, to the Zillah and City Courts, and stating circumstantially the irregularity which may have taken place, be presented to the Judge, Register, or other officer, by whom the sale may have been ordered, within one month after the sale.—*Reg.* VII. 1825, *Sect.* 3, *Cl.* 3.

No sale to take place without the specified proclamation being made; and any material irregularity will render the sale liable to be declared invalid

If a petition on stampt paper be presented within one month after the sale.

In cases where sales are annulled and no collusion

135*. Whenever a public sale may be set aside, as invalid, under the preceding clause, or on any account what-

ever, and no collusion or fraud shall appear on the part of the purchaser, he shall be entitled to receive back his purchase money, on restoring any property delivered over to him, with or without interest, in such manner as it may appear proper to direct in each instance.—*Reg.* VII. 1825, *Sect.* 3, *Cl.* 4.

appears, the purchaser to have his purchase money returned with or without interest as may appear proper.

136*. The summary decisions passed by the Zillah or City Judges or Registers under this Section shall be open to a summary appeal to the Provincial Courts, under the general rule for such appeals.—*Reg.* VII. 1825, *Sect.* 3, *Cl.* 5.

Summary decisions passed by Judges or Registers appealable to the Provincial Courts.

137*. In the event if any claim being preferred to the property advertised for sale, under the provisions of this Section, or of any objections being offered to the proposed sale, within the period of the proclamation, such claim or objection shall be enquired into by the Judge, Register, or other officer, who may have ordered the sale or may be referred for enquiry and report to a Sudder Ameen, or local Moonsiff; and if it appear necessary the time of sale shall be postponed, till such claim or objection have been investigated; provided that the representation of it, (which in all instances is required to be preferred to the Judge, Register, or officer, ordering the sale, as soon as practicable after the publication of the intended sale) shall not appear to have been designedly or unnecessarily delayed, with a view to obstruct the ends of justice. In such cases, when the fraudulent design may appear evident, the sale shall not be postponed, and the claimant shall be left to prosecute his claim, after the sale, by a regular civil suit.—*Reg.* VII. 1825, *Sect.* 3, *Cl.* 6.

How judicial officers are to proceed in cases where claims are made to advertised property or objections made to the sale of it.

Provided such claims or objection shall not have been designedly delayed.

But should the claim be urged with a frandulent design, the sale is to proceed and the claimant left to prosecute in the Civil Court.

138*. In the event of any claim being preferred, or objection offered, to the Collector, against the sale of the lands proposed to be sold, as not belonging to the person or persons answerable for the amount of the decree, or other process, to be enforced, and consequently not liable to be sold in execution thereof, the Collector shall communicate such claim, or objection, with any information which his official records may enable him to furnish on the subject, to the

In the event of any claim or objection against the sale, the Collector shall communicate the same to the Court, and shall be guided by the instructions he may receive.

Court, which may have applied for the sale, and shall be guided by the instructions which he may receive in answer, whether to proceed with the sale, or otherwise.—*Reg.* VII. 1825, *Sect.* 4, *Cl.* 4.

In cases where objections are communicated by Collectors or claims preferred to lands ordered for sale, the Judge, &c. to institute a summary enquiry, and if requisite to instruct the Collector to postpone the sale.

139*. In all cases of a claim or an objection, being communicated by a Collector to the Court enforcing a decree or other process, under the foregoing clause, or of a claim to lands proposed for sale in execution of judicial process, being received from the claimant, by the Judge or other officer, who may have required the sale, it shall be his duty to enter upon an immediate summary enquiry into the truth and foundation of such claim, and if it appear proper he shall instruct the Collecter to postpone the intended sale until such enquiry shall have been completed. Provided however that such postponement shall not be necessary when the claim, or objection, may not have been preferred within a reasonable time after the Collector's publication of the intended sale; and may appear to have been intentionally delayed, with a view to obstruct the sale. In such cases the Court may order the sale to take place, and refer the claimant to a regular suit, in prosecution of his claim.—*Reg.* VII. 1825, *Sect.* 4, *Cl.* 5.

Such postponement to be unnecessary if the claim has not been preferred within a reasonable period.

SECT. XXVIII.

Insolvent Debtors.

140. [The Rules regarding Insolvent Debtors are contained in CHAP. I. Par. 104.]

SECT. XXIX.

Appeals from the Decision of Sudder Ameens.

141. [The Rules of appeals from the decision of Moonsiffs, contained in Section 26, CHAP. I. are applicable to appeals from the decisions of Sudder Ameens.]

SECT. XXX.

Summary Appeals.

Cases in which

142*. On the same principle it shall be competent to the

Zillah or City Judges to receive a summary appeal from the orders or decrees of a Register or Sudder Ameen, in cases in which the Register or Sudder Ameen may have dismissed on the ground of some default, and without an investigation of the merits of the case, any original suit or appeal regularly referred to them.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 4.

the Zillah or City Judges may admit a summary appeal.

143*. In all the preceding cases, the summary appeal shall be preferred within the same limited period as is prescribed for the admission of regular appeals, and subject to the provisions contained in the following clauses:—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 5.

Limitation of time for the admission of summary appeals.

144*. Whenever a party may be desirous of preferring a summary appeal in the cases above mentioned, he shall appear either in person, or by a vakeel duly authorized, before the Court, which under the preceding rules may be competent to receive such appeal, and shall present a petition, written on the stampt paper, prescribed by Section 18, Regulation I. 1814, and accompanied by an attested copy of the order or decree passed in the case.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 6.

The petition for a summary appeal to be written on what stampt paper.

145*. The party presenting such petition, shall not be liable to the payment of the stampt duty, substituted for the institution fee, by Section 13, Regulation, I. 1814, nor shall he be required to furnish the deposit for the fee of his vakeel, or any security, except such as may be eventually necessary under the Regulations in force, for staying the execution of the decree, from which the appeal may be preferred.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 7.

Party not liable to pay the institution fee nor to furnish the usual deposit or security.

Exception.

146*. It shall not be requisite to give any notice to the respondent, or to require his attendance, on such summary appeal being preferred, unless in any particular instance the Court may deem it proper to adopt that measure, nor shall any pleadings or proceedings be holden on such summary appeal, excepting such as may suffice to determine whether the suit was or was not rejected or dismissed by the lower

Mode of proceeding in summary appeals.

Court on sufficient grounds, and in conformity with the Regulations.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 8.

In what cases the lower Courts may be directed to receive or to revive the suit.

147. If upon such summary proceedings, it shall appear to the Court, that the suit was rejected in the first instance, or after being admitted, was dismissed without an investigation of the merits, upon insufficient grounds; or in opposition to the Regulations, it shall be competent to the Sudder Dewanny Adawlut, to the Provincial Courts, and to the Zillah or City Judges respectively, to direct the lower Court or officer, from whose order or decree the petition of appeal may have been presented, to receive the original suit, or appeal, or revive it, if it shall have been received and dismissed, and to try and determine such cause on its merits, according to the Regulations.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 9.

In what cases the Courts may reject the summary appeal and fine the appellant.

148*. If on the contrary such summary appeal shall be found to be groundless and litigious, the Sudder Dewanny Adawlut, the Provincial Courts, and the Zillah and City Judges, are respectively authorized and required to reject the petition for a summary appeal, and to impose such fine on the litigious appellant, as may appear to be in each instance proportionable to the condition of the party, and to the circumstances of the case; provided that such fine shall in no case exceed the amount of the stamp duty which would have been payable by the appellant on the institution of such case, as a regular suit or appeal. All orders imposing fines, or rejecting petitions of summary appeal which may be passed under the preceding clause by the Sudder Dewanny Adawlut, the Provincial Courts, or by the Zillah and City Judges, shall be final and conclusive.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 10.

The orders of the Courts in such cases to be final.

SECT. XXXI.

Execution of Decrees in Cases appealed.

149. [For these rules, vide CHAP. I. Sect. 24.]

SECT. XXXII.

Retention or Recall of Suits.

Judges may recall suits referred to Registers or to Sudder Ameens.

150. The Judges of the Zillah and City Courts are at all times authorized to recall from the Registers or from the Sudder Ameens any depending suits, which may have been referred to them under the present or former Regulations, and which for the more speedy administration of justice, or for any other reason, the Zillah or City Judges may deem it proper to determine themselves in the first instance, or to refer to any other competent authority.—*Reg.* XXIV. 1814, *Sect.* 10.

Judges retaining on their own files cases referrible to the Sudder Ameen or Principal Sudder Ameen, to record their reasons.

151. Whenever the Zillah and City Judges shall retain, on their own files, any original suits which they are authorized by this Regulation to refer to a Sudder Ameen, or Principal Sudder Ameen, they shall record their reasons for doing so on their proceedings.—*Reg.* V. 1831, *Sect.* 24.

SECT. XXXIII.

Correspondence.

Zillah and City Courts prohibited corresponding with parties in suits, or any person respecting matters cognizable in the Courts.

152*. The Judges of the Zillah and City Courts are prohibited corresponding by letter with parties in suits, process or matters, depending before them or coming within their cognizance. If a party in a suit, or a person amenable to the jurisdiction of the Court, shall have any matter to represent to the Court, he is either to appear in the Court in person and represent the matter in writing, or make the representation in writing through an authorized vakeel. The Court is to pass whatever order upon the representation may appear to it proper, consistently with the Regulations, and to direct a copy of the order, to be delivered to the person making the representation, or to his vakeel, under the seal of the Court, and attested by the Register.—*Extract from Reg.* III. 1793, *Sect.* 19.

All references or applications to the Nawaub to be made

153*. All references which the officers in the judicial department may have occasion to make to the Nawaub of Ben-

by the judicial officers through the superintendent of Nizamut affairs.

gal under the provisions contained in Section 10, Regulation XVI. 1793, and generally, all other applications, which those officers may deem it necessary to make to the Nawaub, shall be transmitted to his Highness through the channel of the officer holding the appointment of Superintendent of Nizamut affairs.—*Reg.* XIX. 1805, *Sect.* 2.

Mode in which such references or applications are to be forwarded.

154*. Applications or references of the nature above described, may be transmitted by the public officers of Government in the form of a letter in the Persian language addressed to his Highness the Nawaub, under the signature of the person by whom such applications may be made, and forwarded under an unsealed envelope to the Superintendent of Nizamut affairs, or the substance of the reference or application may be stated in an English letter addressed to the Superintendent of Nizamut affairs, who will without loss of time make the necessary communication to the Nawaub, and forward his answer to the officer of Government from whom the application may have been received.—*Reg.* XIX. 1805, *Sect.* 4.

One established form to be observed in applications in writing to the Nawaub.

155*. Whenever an application may be made in writing addressed to his Highness the Nawaub, one established address suitable to the high rank of the Nawaub, and to the official situation of the person by whom the application may be made, shall be observed; agreeably to the form contained in the Persian transcript of this regulation.—*Reg.* XIX. 1805, *Sect.* 5.

SECT. XXXIV.

Arbitration.

What suits exceeding two hundred rupees the Courts are to recommend to the parties to refer to arbitration.

156*. In suits that may be brought before any Courts of Civil Judicature, concerning disputed accounts, partnerships, debts, doubtful or contested bargains, or non-performance of contracts, in which the cause of action shall exceed two hundred Sicca Rupees, the Courts are to recommend the parties to submit the decision of the matters in dispute to arbitration.—*Reg.* XVI. 1793, *Sect.* 2.

157*. In all suits for money or personal property the amount or value of which shall not exceed the sum of two hundred Sicca Rupees, the Courts are empowered with the consent of the parties, to refer the suit to the decision of one arbitrator. The parties or their vakeels, upon agreeing to the reference, shall on or before the next Court day, mutually choose some one common friend or indifferent person who may be willing to undertake the arbitration. If the parties shall not agree with respect to the person to be appointed arbitrator, or, if the person nominated by them shall refuse to accept the arbitration, and the parties or their vakeels cannot agree in the appointment of another person willing to undertake the arbitration, the Court, with the consent of the parties, is to appoint as arbitrator in the cause, the proprietor of the estate in which the cause of action shall have arisen, or the farmer, if the estate be held in farm of Government, or the Cauzy of the pergunnah, or the tehseeldar, or any other creditable person, provided that the person so to be nominated by the Court, be not in any respect interested in the matter in dispute. But if the parties cannot agree in the nomination of an arbitrator, or, if the person whom they may nominate shall refuse to accept the trust, and the parties cannot agree upon the appointment of any other person willing to undertake the arbitration, or shall not consent to the appointment of an arbitrator by the Court, the cause is not to be referred to arbitration, but is to be tried by the Court or the Register, if the cause be depending in a Zillah or City Court, and the Judge shall think it proper to refer it to him for decision. In the event of the parties, or their vakeels, agreeing in the nomination of an arbitrator willing to accept the arbitration, or to an arbitrator being appointed by the Court, the person so chosen or appointed, shall be the arbitrator in the cause. The parties, however, in suits of the nature of those described in this Section, are to have the option of choosing two or more arbitrators to decide their cause in the same manner as the parties in the causes specified in Section 2.—*Reg.* XVI. 1793, *Sect.* 3.

Cases in which the Courts are empowered to nominate one person to arbitrate with the consent of the parties.

Parties in suits described in this Section, to have the option of referring their causes to the decision of two or more arbitrators.

158*. The Judges of the Courts are enjoined to afford

Courts to incou-

rage but not oblige persons to become arbitrators.

every encouragement in their power to persons of character and credit to become arbitrators, but they are not to employ any coercive means for that purpose, nor to permit any of their public officers or private servants, or any of the authorized vakeels to be arbitrators in a cause. In all cases the Courts are directed to endeavour, but without using any compulsion, to prevail upon parties to submit their cause to the arbitration of one person to be mutually agreed upon by them. In every case (with the exception of the cases specified in Section 3, (Par. 157,) which the Courts are empowered to refer to one arbitrator with the consent of the parties) the parties are to choose the arbitrators, who are to decide the matter in dispute without fee or reward.—*Reg.* XVI. 1793, *Sect.* 4.

What persons are disqualified from becoming arbitrators.

Courts to recommend parties to submit to the arbitration of one person.

Parties to choose the arbitrators.

Exception.

Arbitrators to decide without fee or reward.

159*. [The prohibition regarding the employment of authorized vakeels to act as arbitrators, was rescinded by the following enactment :—]

Pleaders may be employed as arbitrators.

160*. The Courts of Civil Judicature are hereby empowered to permit any of the authorized vakeels of their respective Courts to be arbitrators in depending suits, subject to the several rules and provisions in force for referring suits to arbitration.—*Reg.* XXVII. 1814, *Sect.* 19.

Courts how to proceed upon the parties agreeing to refer a cause to arbitration.

161*. Whenever a suit shall be submitted to arbitration, the Court in which it may have been instituted, previous to the arbitrator or arbitrators entering upon the arbitration, is to cause the parties to execute arbitration bonds, binding themselves to abide by the award, and agreeing that it be made a decree of the Court. The Court is to fix such time as it may think reasonable, upon a consideration of the nature and circumstances of the case, for the delivery of the award, and the period so fixed is to be specified in the bonds. If the cause shall be referred to two or more arbitrators, the following provisions are to be made for completing the award, in the event of the arbitrators not delivering it by the limited time either from disagreement or other cause. If the decision of the suit shall be referred to two or more arbitrators, whether an odd or an even number, the parties are to have

Provisions to be made against the arbitrators not delivering in their award by the limited time from disagreement, or other cause.

the option of nominating jointly one person as umpire, or if the number of arbitrators appointed shall be three or more, being an odd number, to agree that the award given by the majority shall be final, or to permit the arbitrators to nominate an umpire. The name of the umpire, and the time by which he is to make his award in the event of the arbitrators not delivering it by the limited period, is to be specified in the bonds, which are to be executed before the arbitrators enter on the enquiry. In the event of an umpire being appointed, and the arbitrators not agreeing in an award by the limited period, their authority is to cease from such period, and the umpire is to give his award.—*Reg.* XVI. 1793, *Sect.* 5.

Courts how to proceed when the arbitration bonds have been executed.

162*. When a cause shall be referred to arbitration, and the bonds specified in the preceding Section shall have been executed, the Court is to transmit to the arbitrator or arbitrators a copy of the Bill of complaint, and by a short writing under the seal of the Court, refer to him or them the matters in dispute between the parties. In the trial of the suit, the arbitrators are to investigate the matters in dispute, by hearing the pleadings of the parties, and examining their respective witnesses and documents. The Court is to issue the same process to the parties, and to the witnesses, whom the arbitrator or arbitrators, or the parties, may desire to have examined, to appear before the arbitrator or arbitrators, and to administer such oaths to the parties and witnesses as the Court is authorized to administer in causes tried before it, and persons not attending in consequence of such process, or making any default, or refusing to give their testimony, or to sign their depositions, or being guilty of any contempt to the arbitrator or arbitrators during the investigation of the suit, are to be subject to the like disadvantages, penalties and punishments, by order made by the arbitrator or arbitrators, as they would incur for the same offences in suits tried before the Court, provided that the arbitrator or arbitrators shall report the order with the reason for making it to the Court, and obtain its consent thereto, which is to be signified by the Judge or Judges signing the order. In cases in which an arbitration may be held at a considerable distance from the Court, the Court may grant

commissions to the arbitrators to administer the proper oath to witnesses whom they may be desirous of examining upon oath.—*Reg.* XVI. 1793, *Sect.* 6.

Cases in which the Courts may extend the period for the delivery of an award.

163*. In cases where arbitrators or umpires, shall not have been able to complete the award by the limited time, from want of the necessary evidence or information, or other good and sufficient cause, the Courts are empowered to allow a farther time for the delivery of the award. In the first mentioned case, the Courts are to fix a period by which the umpire (if an umpire shall have been appointed) for the delivery of his final award, in the event of the arbitrators not completing their award by the expiration of such farther time.—*Reg.* XVI. 1793, *Sect.* 7.

Arbitrators to deliver all documents, and papers into the Courts.

164*. When a final award in a cause shall be made either by the arbitrators or the umpire, it is to be submitted to the Court under the seal and signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the cause. The Court is to pass a decree conformably to the award, and the decree is to be carried into execution in the same manner as other decrees of the Court.—*Reg.* XVI. 1793, *Sect.* 8.

Award to become a decree of the Court.

Awards not to be set aside but upon proof of corruption or partiality against the arbitrators.

165*. The award of an arbitrator or arbitrators is not to be set aside, except it be fully proved to the satisfaction of the Court by the oaths of two credible witnesses, that the arbitrator or arbitrators has or have been guilty of gross corruption or partiality in the cause in which the award may be made.—*Reg.* XVI. 1793, *Sect.* 9.

Parties in suits respecting land, are at liberty to refer their suits to arbitration.

166*. Parties in suits depending in the Civil Courts of Judicature respecting the property in land or limited tenures therein, or rights dependent thereon, shall be at liberty to refer their suits to arbitration, and shall by all due means be encouraged by the Courts to resort to that mode of adjusting their difference.—*Reg.* VI. 1813, *Sect.* 2. *Cl.* 1.

Persons between whom disputes may exist respecting

167*. Persons between whom disputes may exist respecting the property of land or limited tenures therein, or

rights dependent thereon, whether the same be or be not depending in the Courts of Judicature, are at liberty without any application to the Courts, to refer the same to private arbitration; and the awards made by the arbitrators and umpires appointed in such case by the parties, shall be supported and enforced by the Courts, under the following rules and limitations:—*Reg.* VI. 1813, *Sect.* 3, *Cl.* 1.

land are at liberty to refer the same to private arbitration.

168*. Whenever a dispute respecting the matters above enumerated shall have been referred to private arbitration, and an award shall have been duly made, if either party shall refuse to perform the award, it shall be competent to the other party within the period of six months from the date of the award, to apply summarily to the Dewanny Adawlut; and upon such application, if the Court, after calling upon the opposite party for his answer, be satisfied that the award was duly made, by arbitrators or umpires appointed by the free will and consent of the parties, and such award shall be liable to no impeachment, which would have warranted the setting it aside, if it had been made under the authority of the Court, shall cause the same to be summarily executed as a decree of Court, calling upon the arbitrators or umpires if necessary, to attend and give their assistance in the execution of their said award; provided always that if such application for the enforcement of a private award shall not be made within the period above prescribed, the Court shall not admit any plea whatever for the delay; but shall reject such application and refer the party preferring it to a regular suit.—*Reg.* VI. 1813, *Sect.* 3, *Cl.* 2.

How the award is to be carried into execution, and during what period.

169*. Whenever private awards shall be tendered by the parties in regular suits, the Courts, if such awards shall appear to have been performed, and the possession of the contested property to have been held under them, shall allow equal validity to the same, as if they had been made under the authority of the Courts. But if the awards tendered shall not have been performed at all, or shall have been performed only in part, the Courts shall not admit the same, unless they be establised by clear and satisfactory proof, shall be distinct and intelligible so as to admit of easy exe-

Whenever private awards are tendered by the parties in regular suits, the Courts how to proceed in those cases.

cution, and the delay which may have occurred in the performance of them, shall also be duly accounted for.—*Reg.* VI. 1813, *Sect.* 3. *Cl.* 3.

No former decree of Court on awards of arbitration respecting land shall be amended or reversed after the promulgation of the present Regulation.

170*. Their being reason to believe that decrees have been passed by many of the Civil Courts of Judicature, founded both upon awardo made under the authority of the Court, and also private awards respecting the property in land and limited tenures therein and rights dependent thereon, it is hereby declared that after the promulgation of this Regulation, no decree relating to the matters above enumerated, shall be amended or reversed upon the ground of the same being founded on an award of arbitration not authorized by the Regulations, at the time the award was made unless such award be in itself open to just cause of impeachment.—*Reg.* VI. 1813, *Sect.* 4.

Exception in what case.

The Civil Courts to use every means to induce parties in cases of forcible disposition of land to refer their disputes to arbitration.

171*. In all the cases of forcible dispossession, and disturbance of possession mentioned above, but more especially of disputes respecting the boundaries of estates and premises, and the right to water for the purposes of irrigation, the Dewanny Courts are hereby authorized and required to use every proper means for inducing the parties to refer their disputes to arbitration, with a view either of settling the possession until the matter can be investigated on a regular suit, or to make a complete and final adjustment of their differences, and the award when made, shall, if open to no just cause of impeachment, be executed by the Court with the assistance of the arbitrators. If the parties shall agree to authorize the arbitrators to make a complete and final award on their differences (which mode of adjustment shall in the cases contemplated in this Section, be invariably promoted by the Courts) the agreement to refer shall carefully express that the award is intended to be final, and the award when confirmed by the Courts, shall be held of the same force and validity as a regular judgment.—*Reg.* VI. 1813, *Sect.* 5, *Cl.* 2.

SECT. XXXV.

Institution of Suits by Native Officers and Soldiers.

Native officers and soldiers may authorize any person to institute and conduct suits in which they may be a party.

172*. Whenever a native officer or soldier on the military establishment of the Presidency of Fort William may be desirous of instituting a regular or summary suit in any of the local Courts of Civil Judicature, and shall not be able to obtain a furlough or leave of absence for the purpose of superintending or conducting such suit in person, he shall be at liberty to execute a mokhtarnamah or power of attorney, drawn up according to the Form No. 1, in the Appendix to this Regulation, authorizing and appointing any member of his family or other person to institute and carry on the suit, and to perform all acts in the original trial of the cause, and eventually in appeal, in the same manner as if the party were himself personally present and consenting.—*Reg.* XV. 1816, *Sect.* 3, *Cl.* 1.

Appendix, Form No. 1.

Whereas I, A. B. —— inhabitant of village —— purgunnah ———— in the district of ———— son of —— —— of the caste of ———— at present (here specify his rank) of the ———— battalion of the ———— Regiment stationed at ———— having occasion to institute (or defend) an action for* ———— do hereby nominate and appoint C. D.† ———— to be my attorney, (or mokhtar) and I bind myself to abide by whatever he the said attorney may do in my behalf in the prosecution‡ (or defence) of the said suit.

The said attorney will either prosecute (or defend) the suit in person, or will appoint one or more of the authorized vakeels of the Court to prosecute (or defend) the same under the instructions of the said attorney as he may think proper. In the event of an appeal being preferred from the judgment passed in the suit, the said attorney is farther

---

* Here insert briefly the nature and object of the suit; and the name of the adverse party or parties.

† Here insert the name, place of residence, caste and his relationship (if any) to the native officer or soldier.

‡ As the case may be.

hereby empowered to act for me on the appeal, in like manner as on the original suit.

(Signed) ————

Executed in my presence,

————

Comdg. —— Det. or Bat. or Regt.

The mokhtarnamah need not be written on stampt paper.

173*. Such mokhtarnamah shall not be required to be written on stampt paper, but shall be executed by the native officer or soldier in the presence of the Commanding Officer of the corps or detachment, to which he may belong, who shall countersign the same testimony of its having been voluntarily executed.—*Reg.* XV. 1816, *Sect.* 3, *Cl.* 2.

The above document is to be transmitted to the Register of the Court by the Commanding Officer.

174*. The mokhtarnamah so executed is to be transmitted by the Commanding Officer, under cover of a public letter drawn up in the Form No. 2, of the Appendix, addressed to the Register of the Court, in which the suit is to be instituted, and upon the receipt of such letter, a notice shall be issued by the Court for the purpose of procuring the attendance either personally, or by a constituted vakeel of the person nominated in the moktarnamah.—*Reg.* XV. 1816, *Sect.* 3, *Cl.* 3.

Appendix, Form No. 2.

To ————

Register of the Civil Court of Zillah ——

Sir,

In conformity with the Third Clause of Section 3, Regulation XV. 1816, I have the honor to transmit to you a power of attorney duly executed in my presence by A. B. son of C. D. of the caste of ————, inhabitant of ———— officer or sepoy (as the case may be,) of the —— Battalion, —— Regiment.

I am, Sir, &c. &c.

————

Comdg. —— Bat —— Regt.

The Judge is to communicate the inability or refusal of a mookhtar to undertake the trust.

175*. If such person shall refuse to attend the Court in person, or by a constituted vakeel, or shall decline to undertake the trust or shall subsequently die, or be prevented by

any other sufficient cause from discharging the duty confided to him, the Court shall cause information of the same to be communicated to the native officer or soldier, by an extract from the proceedings of the Court enclosed in an official letter to be addressed by the Register, or in his absence by the Judge, to the Commanding Officer of the corps.—*Reg.* XV. 1816, *Sect.* 3, *Cl.* 4.

The mokhtarnamah to be filed with the Court's proceedings if accepted by the person therein nominated to superintend the cause.

176*. If the person nominated and appointed in the mokhtarnamah shall attend the Court in person, or by a constituted vakeel, and shall consent to undertake the duty confided to him, the original mokhtarnamah shall be deposited in the Court, and annexed to the proceedings which may be held on the suit. The mokhtar or attorney so appointed and attending, may at his option either prosecute the suit, and conduct the pleadings in person, or may constitute for that purpose one or more of the authorized pleaders of the Court, under the provisions of Regulation XXVII. 1814. In all other respects the suit shall be instituted, tried and determined in conformity with the general rules in force for the institution and trial of other similar suits, provided however that when the native officer or soldier, who may be the real party in the suit shall not be himself present at the time of its decision, an authenticated copy of the decree written on unstampt paper, shall in each instance be transmitted through the Register of the Court, to the Commanding Officer of the corps or detachment, for the purpose of its being communicated to the native officer or soldier.—*Reg.* XV. 816, *Sect.* 3, *Cl.* 5.

The suit is to be investigated in other respects under the general Regulations.

177*. It is hereby explained that no part of the preceding clauses, or of the subsequent provisions of this Regulation, is intended to be applicable to claims originating in loans granted by a native officer or sepoy, or in pecuniary transactions of a commercial nature.—*Reg.* XV. 1816, *Sect.* 3, *Cl.* 6.

SECT. XXXVI.

Suits against Native Officers or Soldiers.

Rules to be observed to prevent an exparte trial of a cause in which a soldier or native officer is defendant.

178*. For the purpose of preventing as far as may be practicable the occurrence of exparte trials, in suits instituted against native officers or soldiers, it is hereby further enacted, that whenever a suit may be instituted in any Civil Court, against a person being a native officer, or soldier, attached to a regular corps on the military establishment of the Honorable Company under the Presidency of Fort William, the plaintiff or appellant shall be required to state the same distinctly in his plaint or petition of appeal, and to specify to the best of his knowledge and belief the corps to which such native officer or soldier may be attached. If the plaintiff or appellant shall be unable to specify the corps it shall be the duty of the Court trying the suit to endeavour to ascertain the point by such means of enquiry as may appear practicable and expedient.—*Reg.* XV. 1816, *Sect.* 4, *Cl.* 1.

A notice in the usual form to be transmitted to the commanding officer.

179*. A notice in the usual form, together with a copy of the plaint or petition of appeal on unstampt paper, enclosed in an official letter drawn up according to the Form No. 3, of the Appendix, shall be then transmitted by the Register, or in his absence by the Judge to the Commanding Officer of the corps, for the purpose of its being communicated to the native officer or soldier against whom the suit may have been, instituted; a similar notice shall be issued, when omitted in the first instance, from ignorance of the defendant's being a native officer or soldier, attached to a regular corps, if at any subsequent period during the trial of the suit, it should appear to the Court, that the defendant or respondent is a native officer or soldier as above described, and in cases in which the plaintiff or appellant shall willfully and intentionally omit to state in his plaint or petition of appeal, that the defendant or respondent is a native officer or soldier, the Court shall impose on such plaintiff or appellant, a discretionary fine not exceeding one fourth of the amount of the institution fee, or stamp duty in each case.—*Reg.* XV. 1816, *Sect.* 4, *Cl.* 2.

Fine to be imposed on a plaintiff or appellant in certain cases.

Appendix, Form No. 3.

To. ————————

Commanding the —— Battalion —— Regiment.

at ————————

Sir,

In conformity with the Second Clause of Section 4, Regulation XV. 1816, I have the honor to transmit to you the copy of a plaint filed in case, No. ———— in this Court by ———— against ———— stated to be an officer, (or sepoy) in the corps under your command, together with a notice, which request you will cause to be served on the said ———— You are requested to acknowledge the receipt of the notice, and to inform the Court, whether it has been duly served on the above named ———— or the reasons which may have prevented its being served on him.

I am, Sir, &c.

————————

Judge.

Dewanny Adawlut.

180*. The Commanding Officer after causing the notice to be served on the party to whom it is addressed, if practicable, shall return it to the Register or Judge with the written acknowledgement of the party endorsed thereupon, together with any moktarnamah, which the party may be desirous of executing according to the Form No. 1, in the Appendix, for appointing an attorney to defend the suit in his behalf. If from any cause the notice transmitted to the Commanding Officer cannot be served upon the native officer, or soldier, to whom it is addressed, it shall be returned by the Commanding Officer to the Register or Judge from whom it may have been received, with information of the cause which has prevented the service of it. In such case the Court shall either make a further reference with the view of causing the notice to be duly communicated to the native officer or sepoy, or shall adopt such other measures for that purpose as on a consideration of the circumstances of each case may appear to be proper and consistent with the Regulations.—*Reg.* XV. 1816, *Sect.* 4, *Cl.* 3.

The Commanding Officer on receipt of the notice will cause it to be duly served.

Measures to be adopted by the Judge if the notice cannot be served.

SECT. XXXVII.

Conduct of Suits of Native Officers and Soldiers.

Rules to be observed by Commanding Officers in granting leave of absence to soldiers and native officers to enable them to superintend their own suits.

181*. When a native officer or soldier may obtain a furlough for the purpose of instituting or defending a civil suit in any of the local Courts of Civil Judicature he shall be at liberty to request from the Commanding Officer of the corps or detachment an official letter addressed to the Register of the Court in which the suit is to be tried; such letter shall be drawn up according to the Form No. 4, of the Appendix to this Regulation, but shall not give cover to any petition, nor contain any statement or explanation of the merits or circumstances of the case.—*Reg.* XV. 1816, *Sect.* 5, *Cl.* 1.

Appendix, Form No. 4.

To ——————

Register ——————

Zillah or City or Provincial Court.

Sir,

In conformity with the First Clause of Section 5, Regulation XV. 1816, I have the honor to inform you, that the bearer of this letter A. B. son of C. D. of the caste of —— —— inhabitant of —————— officer or sepoy of the —————— battalion —————— Regiment, &c. —————— has obtained permission to be absent from his corps for the period of —— —— months, for the purpose of instituting (or defending) a suit in the Zillah, City or Provincial Court of ——————

I am, Sir, &c.

——————

Comdg. —— Bat. —— Regt.

The Court authorized to nominate a vakeel on behalf of the native officer or soldier.

182*. Such letter shall be delivered in person by the native officer or soldier to the Register, or in his absence, to the Judge of the Court, who is hereby authorized, at the request of the party, to nominate a vakeel of the Court for the purpose of furnishing to the native officer or soldier, his legal aid and advice in preparing the pleadings and in carrying on the prosecution or defence of the suit. The Register, or Judge, shall at the same time cause the native officer or soldier, to be duly apprized of the provisions contain-

Provisions of Re-

ed in Regulation XXVII. 1814, and of any other Regulation in force, relative to the duties, and established fees of the pleaders attached to the Civil Courts, which must of course be observed whenever a native officer, or soldier, may wish to consult or employ a pleader.—*Reg.* XV. 1816, *Sect.* 5, *Cl.* 2.

Regulation XXVII. 1814, to be duly attended to on such occasions.

183*. Nothing contained in the preceding Section shall be construed to prohibit a native officer, or soldier, from pleading his cause in person, or from employing any other authorized pleader of the Court, whom he may prefer, instead of the pleader nominated for him by the Court.—*Reg.* XV. 1816, *Sect.* 6.

A native officer or soldier may plead his own cause or appoint his own pleader.

184*. The Courts of Civil Judicature are hereby authorized and required to bring to a hearing without regard to the order in which they may be filed, all suits excepting those of the nature alluded to in the Sixth Clause of Section 3 of this Regulation, (Par. 177,) in which a native officer or soldier, who may have obtained leave of absence from his corps, may be a party, and to pass a decision on such suits as speedily as may be consistent with the general rules in force, and with the due administration of justice.—*Reg.* XV. 1816, *Sect.* 7, *Cl.* 1.

Suits instituted under this Regulation to be heard as soon as possible.

185*. If the cause cannot be brought to a decision previously to the expiration of the furlough granted to such native officer or soldier, the Judge or Register before whom the suit may be depending, is hereby vested with a discretionary authority to grant to such native officer, or soldier, an extension of his leave of absence for a period sufficient to admit of a reference being made to the Commanding Officer of the corps, with a view to ascertain whether the furlough can be prolonged for any further specific period. But whenever a Judge or Register may avail himself of the discretion above vested in him, he shall be careful to report the same immediately in an official letter to the Commanding Officer of the corps to which the native officer or sepoy may be attached. —*Reg.* XV. 1816, *Sect.* 7, *Cl.* 2.

Mode to be adopted by the Court in the event of the expiration of the furlough before the cause be decided.

186*. In all cases in which a native officer, or soldier may

Ditto, ditto.

return to his corps before a final decision can be passed in his suit, he shall be at liberty either to leave the further conduct of the suit to a constituted mokhtar under a mokhtarnamah, duly executed according to the Form No. 1, in the Appendix to this Regulation, or to one or more of the established pleaders of the Court empowered to act for him by a regular vakeelutnamah. In either case a copy of the decree which may be passed in the suit shall be transmitted for the information of the native officer or soldier, in the manner prescribed in the Fifth Clause of Section 3, of this Regulation.—*Reg.* XV. 1816, *Sect.* 7, *Cl.* 3.

SECT. XXXVIII.

Decrees against Native Officers and Soldiers.

Rules to be observed when any land or real property belonging to a soldier or native officer is attached.

187*. Whenever any land or real property belonging to a native officer or soldier may be attached by a Court of justice for the purpose of realizing the amount of any judgment, fine or penalty imposed on such native officer or soldier, the Court shall cause notice of the same to be issued in the manner prescribed in the Second Clause of Section 4, of this Regulation, and shall postpone the sale for such definite period as may appear reasonable, for the purpose of affording an opportunity to the native officer or soldier to discharge the amount of the judgment, fine or penalty.—*Reg.* XV. 1816. *Sect.* 8.

Nothing in this Regulation to be construed as affecting the prohibitions of Regulation XX. 1810, or any modification of the latter Regulation.

188*. Nothing contained in this Regulation shall be construed to affect or to alter the rules and provisions of Regulation XX. 1810, or to authorize the Commanding Officer of any corps or detachment to correspond with the Civil Courts or with the Collectors, regarding the merits of any judgment, or order, passed by them in the discharge of their official duty under the provisions of this Regulation.—*Reg.* XV. 1816, *Sect.* 10, *Cl.* 1.

The provisions of this Regulation not to be considered applicable to certain descriptions of persons.

189*. Nothing contained in this Regulation shall be construed to modify, or to affect the existing rules for the trial of Civil suits, in which persons who may have been discharged from the service, or who may be attached to provin-

cial battalions, or to local or irregular corps, or who may be camp-followers, or non-combatant retainers of the army, or who may be relations, or members of the family of a native officer or soldier, may be parties; the foregoing provisions of this Regulation are to be considered as strictly and exclusively applicable to native officers or soldiers, who may be entertained in regular corps, and on the actual strength of the army, on the establishment of the presidency of Fort William.—*Reg.* XV. 1816. *Sect.* 10, *Cl.* 2.

SECT. XXXIX.

Rates of Interest in Bengal, Behar and Orissa.

Rates of interest to be decreed where the cause of action shall have arisen before the 28th March 1780, and

190*. If the cause of action shall have arisen before the twenty-eighth day of March, one thousand seven hundred and eighty, the Courts of Civil Judicature, are not to decree higher or lower rates of interest, than the following:—*Reg.* XV. 1793, *Sect.* 2, *Cl.* 1.

may not exceed one hundred Sicca Rupees, or,

191*. On sums not exceeding one hundred Sicca Rupees; three rupees, and two annas, per cent. per mensem, or thirty-seven rupees and eight annas, per cent. per annum.—*Reg.* XV. 1793, *Sect.* 2, *Cl.* 2.

may exceed that sum.

192*. On sums exceeding one hundred Sicca Rupees; two per cent. per mensem, or twenty-four per cent. per annum.—*Reg.* XV. 1793, *Sect.* 2, *Cl.* 3.

Rates of interest to be decreed where the cause of action shall have arisen between the 28th March 1780, and the 1st January 1793, and

193*. If the cause of action shall have arisen, at any period between the twenty-eighth day of March, one thousand seven hundred and eighty, and the first day of January, one thousand seven hundred and ninety-three, no higher or lower rates of interest than the following are to be decreed.—*Reg.* XV. 1793, *Sect.* 3, *Cl.* 1.

may not exceed one hundred Sicca Rupees, or,

194*. On sums not exceeding one hundred Sicca Rupees; two per cent. per mensem, or twenty-four per cent. per annum.—*Reg.* XV. 1793, *Sect.* 3, *Cl.* 2.

may exceed that sum.

195*. On sums exceeding one hundred Sicca Rupees;

one per cent. per mensem, or twelve per cent. per annum.—*Reg.* XV. 1793, *Sect.* 3, *Cl.* 3.

Twelve per cent. to be decreed, if the cause of action shall have arisen after the 1st of January 1793.

196*. If the cause of action shall have arisen, on or after the first day of January, one thousand seven hundred and ninety-three, the Courts are not to decree any interest on any sum whatever, above the rate of twelve per cent. per annum.—*Reg.* XV. 1793, *Sect.* 4.

SECT. XL.

Rates of Interest in Benares.

Provisions of Regulation XV. 1793, extended to Benares, from the date herein specified, with certain modifications.

197*. The provisions contained in the several Sections of Regulation XV. 1793, are hereby declared to extend to the province of Benares, from the commencement of the ensuing year 1807, A. C. corresponding with the 9th Poos of the Bengal year 1213, and 7th Poos of the Fussily year 1214; subject to the following modifications:—*Reg.* XVII. 1806, *Sect.* 2.

What rates of interest to be decreed by the Courts of Civil Judicature, if the cause of action have arisen before the period stated in the preceding Section.

198*. Instead of the limitations of interest specified in Sections 2 and 3, Regulation XV. 1793, if the cause of action shall have arisen before the period stated in the preceding Section, the Courts of Civil Judicature are to decree whatever rate of interest may have been voluntarily stipulated; or, if interest be payable in any case wherein a specific rate may not have been stipulated, according to the law and usage of the province; in conformity with the spirit of Section 9, Regulation VII. 1795, which directs, with respect to bills of exchange, receipts, or notes of hand, that the custom of the country is to be abided by, and with respect to dealings and money transactions amongst mahajins and shroffs, that the established customs observed, and enforced, amongst them, are to be adhered to by the Courts in their inquiries and decisions.—*Reg.* XVII. 1806, *Sect.* 3.

Laws and usages of the province and the spirit of Section 9, Regulation VII. 1795, to be applied in certain cases.

What rate of interest to be adjudged, if the cause of action arise after the period specified in Section 2.

199*. If the cause of action shall arise after the period specified in Section 2, of this Regulation, the Courts are not to decree any interest above the rate of one per cent. per mensem; or twelve per cent. per annum.—*Reg.* XVII. 1806, *Sect.* 4

SECT XLI.

Rates of Interest in the Ceded and Conquered Provinces.

Rates of interest to be decreed where the cause of action shall have arisen before the 10th November, 1801; and

200*. If the cause of action shall have arisen before the tenth day of November, one thousand eight hundred and one, the Courts of Civil Judicature are not to decree higher or lower rates of interest, than the following:—*Reg.* XXXIV. 1803, *Sect.* 2, *Cl.* 1.

may not exceed one hundred Sicca Rupees, or,

201*. On sums not exceeding on hundred Sicca Rupees, two rupees, and eight annas, per cent. per mensem, or thirty per cent. per annum.—*Reg.* XXXIV. 1803, *Sect.* 2, *Cl.* 2.

may exceed that sum.

202*. On sums exceeding one hundred Sicca Rupees, two per cent. per mensem; or twenty-four per cent. per annum. —*Reg.* XXXIV. 1803, *Sect.* 2, *Cl.* 3.

Rates of interest where the cause of action shall have arisen after the 10th November 1801, to be twelve per cent.

203*. If the cause of action shall have arisen, on, or subsequent to the tenth day of November, one thousand eight hundred and one, the Courts are not to decree interest on any sum whatever, above the rate of twelve per cent. per annum.—*Reg.* XXXIV. 1803, *Sect.* 3.

Regulations XXXIII. and XXXIV. 1803, extended to the Zillahs specified in Section 3, with the following modification.

204*. Regulations XXXIII. and XXXIV. 1803, are hereby extended to the Zillahs specified in Section 3, with the following modification of the Regulation last mentioned. —*Reg.* VIII. 1805, *Sect.* 23. *Cl.* 1.

[Those Zillahs are: the Zillah of Allygur, the northern division of the Zillah of Saharunpore, the southern division of the Zillah of Saharunpore, the Zillah of Agra, and the Zillah of Bundlecund.]

What dates to be substituted for that specified in Sections 2, 3, and 9, Regulation XXXIV. 1803, and for that specified in Sections 7, and 8, of the said Regulation.

205*. The 30th of December 1803, shall be the date to be adopted in the Zillahs of Allyghur, Agra, and the northern and southern division of the Zillah of Saharunpore; and the 16th of December 1803, shall be the date to be adopted in the Zillah of Bundlecund; in lieu of the date specified in Sections 2, 3, and 9, Regulation XXXIV. 1803. The 1st of January 1806, shall be adopted in the whole of

the above Zillahs in lieu of the date specified in Sections 7, and 8, of the said Regulation.—*Reg.* VIII. 1805, *Sect.* 23, *Cl.* 2.

SECT. XLII.

Rates of Interest in Cuttack.

Rules respecting the payment of interest upon money.

206*. The following rules shall be observed in the Zillah of Cuttack, including the pergunnahs of Puttespore, Kummardichour, and Bograe, respecting the payment of interest on money.—*Reg.* XIV. 1805, *Sect.* 9, *Cl.* 1.

Rules when the cause of action shall have arisen before the 14th October 1803.

207*. If the cause of action shall have arisen before the 14th of October 1803, the Courts of Civil Judicature are not to decree a higher or lower rate of interest than the following, unless a lower rate of interest shall have been stipulated to be paid by the parties in the suit:—

On sums not exceeding one hundred Sicca Rupees, two rupees and eight annas per mensem, or thirty per cent. per annum.

On sums exceeding one hundred Sicca Rupees, two per cent. per mensem.—*Reg.* XIV. 1805, *Sect.* 9, *Cl.* 2.

No greater interest than twelve per cent. per annum to be decreed when the cause of action shall have arisen subsequently to the 14th October 1803.

208*. If the cause of action shall have arisen on, or subsequently to, the 14th October 1803, the Courts are not to decree interest on any sum whatever above the rate of twelve per cent. per annum.—*Reg.* XIV. 1805, *Sect.* 9, *Cl.* 3.

SECT. XLIII.

General Rates of Interest.

Lower rates of interest than those authorized in Sections 2, 3, and 4, to be decreed, if stipulated between the parties.

209*. If in any of the cases specified in Sections 2, 3, and 4, (Par. 190—196,) a lower rate of interest than any of the rates therein authorized to be awarded, shall have been stipulated between the parties, no higher rate of interest than the rate so stipulated, is to be decreed.—*Reg.* XV. 1793, *Sect.* 5.

Courts not to decree a greater sum for interest, than

210*. If the interest on any debt, calculating according to the rates allowed by this Regulation, shall have accumu-

lated so as to exceed the principal, the Courts are not in any case whatever, (excepting the cases specified in Section 12,) (Par. 216,) to decree a greater sum for interest, than the amount of such principal.—*Reg.* XV. 1793, *Sect.* 6.

the amount of the principal, in any case.

Exception.

211*. The Courts are not to decree any compound interest, arising from intermediate adjustments of accounts. This rule however, is not to extend to cases in which accounts between the parties shall have been adjusted, and the former bonds or agreements cancelled, and new bonds or agreements taken, for the aggregate amount of the principal, and the legal interest remaining due upon the adjustment, consolidated into principal.—*Reg.* XV. 1793, *Sect.* 7.

Compound interest on intermediate adjustments of accounts are not to be allowed.

To what cases this rule is not to extend.

212*. The Courts are not to decree any interest whatever, in any case, where the bond or instrument given for the security and evidence of the debt, shall have been granted on or subsequent to the twenty-eighth day of March, one thousand seven hundred and eighty, and shall specify a higher rate of interest, than is authorized by this Regulation, to have been given and received subsequent to that date.—*Reg.* XV. 1793, *Sect.* 8.

Cases in which the interest on bonds or instruments executed on or subsequent to the 28th March 1780, is to be forfeited.

213*. Nor to decree any interest whatsoever in favor of the plaintiff, in any case, where the cause of action shall have arisen on or subsequent to the twenth-eighth day of March, one thousand seven hundred and eighty, where a greater interest than is authorized by this Regulation, shall have been received, or stipulated to be received, if it be proved that any attempt has been made to elude the rules prescribed in it, by any deduction from the loan, or by any device or means whatever, nor to give any other judgment, but for the dismission of the suit, with costs to be paid by the plaintiff.—*Reg.* XV. 1793, *Sect.* 9.

Suit to be dismissed with costs, where the cause of action shall have arisen on or subsequent to the 28th March 1780, if any attempt is made to evade this Regulation.

[The following rule is special with regard to Benares.]

214*. The forfeiture of interest for stipulation of a higher rate, than what is authorized, enacted by Section 8, Regulation XV. 1793; (Par. 212,) and the forfeiture of principal and interest, in cases of attempts to elude the prescribed

The forfeiture of principal and interest in the cases herein specified, enacted by Section 8, Regulation XV. 1793, not to be

considered applicable to bonâ fide loans contracted, or bonds executed, previously to the period specified in Section 2.

rules, by deductions from the principal, or other devices, provided against by Section 9, Regulation XV. 1793, (Par. 213,) shall not be considered applicable to any loans actually and bonâ fide contracted, or to any bonds or other instruments voluntarily given for the evidence and security of such loans, previously to the period stated in Section 2, (Par. 197,) of this Regulation.—*Reg.* XVII. 1806, *Sect.* 5.

Interest to be allowed on sums adjudged by the decree appealed from, if confirmed, and litigious appeals to be punished by fine.

215*. To prevent an abuse of the above rule, and the encouragement of litigious appeals, the Provincial Courts of Appeal in all cases wherein they may confirm the decree of a Zillah or City Court, and the Sudder Dewanny Adawlut, in all cases wherein it may confirm the decree of a Provincial Court, are to adjudge interest at the rate of one per cent. per mensem on all sums receivable by the respondent under the decree passed in his favor, from the date of such decree, and are authorized to punish appeals which may appear to them litigious, by a fine to Government, proportionate to the condition of the party, and the circumstances of the case.—*Reg.* XIII. 1796, *Sect.* 3.

Rules in the preceding Sections not to extend to respondentia loans, or policies of insurance.

216*. The rules contained in the preceding Sections, (Par. 190—196; 209—213; 219, 220,) are not to be considered to extend to respondentia loans, or policies of insurance, the interest on which is to be regulated by the terms of the deeds, and the laws and usages which prevail respecting such transactions.—*Reg.* XV. 1793, *Sect.* 12.

Decrees not to be given for sums of money on bonds, which may not have been executed in the presence of two credible witnesses, unless the sum or a valuable consideration shall be proved to have been given.

Cases to which this restriction is not to extend.

217*. The Zillah and City Courts are prohibited decreeing the payment or satisfaction of any sum due on a tamassook or bond, which may have been entered into after the 28th March 1780, unless the bond shall be proved to have been executed in the presence of two credible witnesses, or the payment of the sum demanded on the bond, or some other valuable consideration for it having been received, shall be proved to the satisfaction of the Court. But the restriction contained in this Section, is not to extend to any bills of exchange, receipts, or notes of hand, in the determination on which the custom of the country is to be abided by.—*Reg.* III. 1793, *Sect.* 15.

218*. All deeds of whatever denomination, whether written on stampt paper or otherwise, that may have been regularly and legally executed, according to the Dutch Law or established local usage previously to the promulgation of this Regulation are hereby declared to be valid, and the several Courts of Civil Judicature are empowered and directed to admit such deeds in evidence, and in any judicial proceedings that may be held on such documents, the Courts are to be governed by the law and usage, under which the same were prepared and executed.—*Reg.* XVIII. 1825, *Sect.* 6. [This rule applies only to Chinsurah.]

Deeds regularly executed to be received in evidence by the Civil Courts.

SECT. XLIV.

Mortgages.

219*. In cases of mortgages of real property, executed prior to the twenty-eighth day of March, one thousand seven hundred and eighty, in which the mortgagee may have had the usufruct of the mortgage property, whether he shall have held it in his own possession or not, the usufruct is to be allowed to the mortgagee, in lieu of interest, agreeably to the former custom of the country, (provided it shall have been so stipulated between the parties,) until the above-mentioned date, subsequent to which, the same interest is to be allowed on such mortgage bonds, and also on all bonds for the mortgage of real property, which have been entered into on or since that date, or that may be hereafter executed, as is allowed on other bonds, which have been or may be granted on, or posterior to, such date, and no more; and all such mortgages, are to be considered as virtually and in effect cancelled and redeemed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property subsequent to the twenty-eighth day of March, one thousand seven hundred and eighty, or otherwise liquidated by the mortgager. —*Reg.* XV. 1793, *Sect.* 10.

What interest is to be allowed on mortgage bonds for real property, executed prior, on, or subsequent to the 28th March 1780.

[Vide, regarding the Province of Benares, Par. 214.]

220*. For the adjustment of the accounts, in the cases of mortgages specified in Section 10, where the mortgagee

Mortgagee to deliver in true accounts of his re

ceipts and expenditures.

shall have had the usufruct of the mortgaged property, the mortgagee is to be required to deliver in the accounts of his gross receipts from the property mortgaged, and also of his expenditures, for the management or preservation of it. The mortgagee is to swear, or (if he be of the description of persons whom the Courts are empowered to exempt from taking oaths,) to subscribe a solemn declaration, that the accounts which he may deliver in, are true and authentic. The mortgager is to be permitted to examine the accounts, and after hearing any objections he may have to offer, or any evidence that either party may have to adduce, respecting them, the Court is to adjust the account.—*Reg.* XV. 1793. *Sect.* 11.

Provisions in addition to those made by Regulations I. 1798, and XXXIV. 1803, for the redemption of mortgages and conditional sales of land, under deeds herein specified.

221*. In addition to the provisions made in the Provinces of Bengal, Behar, Orissa, and Benares, by Regulation I. 1798, and in the Ceded and Conquered Provinces by Regulation XXXIV. 1803, for the redemption of mortages and conditional sales of land, under deeds of bye-bil-wuffa, kutcubaleh, or any similar designation; it is hereby provided, that

What shall entitle the mortgager or his legal representative to redemption of his property before the final foreclosure of the mortgage at any time within the period of one year from and after the period of the application made by the mortgager to the Zillah or City Court, for foreclosing the mortgage.

when the mortgagee may have obtained possession of the land, on execution of the mortgage deed, or at any time before a final foreclosure of the mortgage, the payment, or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due, if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property, the payment, or established tender of the principal sum lent, with any interest due thereupon, shall entitle the mortgager and owner of such property, or his legal representative to the redemption of his property, before the mortgage is finally foreclosed in the manner provided for by the following Section, that is to say, at any time within one year (Bengal, Fussily, or Willaity, according to the era current, where the mortgage may take place,) from and after the application of the mortgagee to the Zillah or City Court of Dewanny Adawlut, for foreclosing the mortgage, and rendering the sale conclusive, in conformity with

Proviso.

Section 8, of this Regulation; provided that such payment or tender be clearly proved to have been made to the lender

and mortgagee, or his legal representative; or that the amount due be deposited, within the time above specified, in the Dewanny Adawlut of the Zillah or City in which the mortgaged property may be situated; as allowed, for the security of the borrower and mortgager, in such cases, by Section 2, Regulation I. 1798, and Section 12, Regulation XXXIV. 1803, the whole of the provisions contained in which Sections, as applied therein to the stipulated period of redemption, are declared to be equally applicable to the extended period of one year, granted for an equitable right of redemption by this Regulation.—*Reg.* XVII. 1806, *Sect.* 7.

How a mortgagee or holder of a deed of conditional sale is to proceed, when desirous of foreclosing a mortgage, or rendering a conditional sale conclusive.

222*. Whenever the receiver or holder of a deed of mortgage, and conditional sale, such as is described in the preamble and preceding Sections of this Regulation, may be desirous of foreclosing the mortgage, and rendering the sale conclusive, on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall (after demanding payment from the borrower, or his representative,) apply, for that purpose, by a written petition to be presented by himself, or by one of the authorized vakeels of the Court, to the Judge of the Zillah or City in which the mortgaged land, or other property, may be situated. The Judge on receiving such written application, shall cause the mortgager or his legal representative, to be furnished, as soon as possible with a copy of it, and shall at the same time, notify to him, by a perwanah under his seal and official signature, that if he shall not redeem the property mortgaged, in the manner provided for by the foregoing Section, within one year from the date of the notification, the mortgage will be finally foreclosed, and the conditional sale will become conclusive.—*Reg.* XVII. 1806, *Sect.* 8.

To present a petition in person or by an authorized vakeel to the Judge of the Zillah Court.

How the Judge is to proceed on receiving such petition.

SECT. XLV.

Conditional Sales.

Persons who have borrowed money on a conditional sale of land, and who may be desir-

223*. In all instances of the loan of money on bye-bil-wuffa, or on the conditional sale of landed property, as explained in the preamble to this Regulation, however de-

ous of redeeming the land by payment of the money lent upon it, how to proceed for this purpose.

May, within the stipulated period, either tender and pay the amount due, to the lender, or deposit the same in the local Dewanny Adawlut.

nominated, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it, with any interest due thereon within the stipulated period, is at liberty, on or before the date stipulated, either to tender and pay to the lender the amount due to him; taking such precautions as he may think necessary to establish such tender and payment, evaded or denied, or, without any tender to the lender, to deposit the amount due to him on or before the stipulated date, in the Dewanny Adawlut of the City or Zillah in which the land may be situated, and

Receipt to be given by the Judge for such deposit.

the Judge receiving the same shall furnish the party with a written receipt for the amount, specifying on what date and

Notice to be given to the lender, and payment to be made to him, under restrictions.

for what purpose such deposit may have been made. He shall also, at the same time, cause a written notice of such deposit to be delivered to the lender, and on the application of the latter and his surrender of the conditional bill of sale, or shewing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited, and take his acknowledgement, to remain among the records of

Specification of the deposit required.

the Court. That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows. When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding the legal rate of twelve per cent. per annum; or, if interest be payable, and no rate has been stipulated, with interest at the established rate of twelve per cent. but if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements

Rights of the borrower preserved by making the required deposit.

during the period he has been in possession. In either case, a deposit made as above required, shall be considered to preserve to the borrower his full right of redemption, and if the land be in the possession of the lenders shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section.

Proviso, with respect to deposits less than above required, if alleged to be the total amount due.

Provided however, that if the borrower in any case shall deposit a less sum, than above required, alleging that the sum so deposited is the total amount due to the lender, for principal and interest, after deducting the proceeds of the

lands in his possesion, or otherwise, such deposit shall be received, and notice given to the lender as above directed, and if the amount so deposited be admitted by the lender, or be established, on investigation, to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower, who will not however, in such cases, be entitled to the recovery of his lands until it be admitted, or established that he has paid the full amount due from him.—*Reg.* I. 1798, *Sect.* 2.

Such deposits to be also received; and to preserve the borrower's rights, if admitted, or established, to be the total amount due.

224*. In all instances wherein the lender on a bye-bil-wuffa, or similar conditional sale, may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower, the lender is to account to the borrower for the proceeds of the estate whilst in his possession, on the principles prescribed with regard to mortgages and interest in Regulation XV. 1793, as far as the same may be applicable to the nature of the case. But such part of Section 10, of the above Regulation, as directs that the mortgages therein referred to are to be considered as cancelled and redeemed whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property, or otherwise liquidated by the mortgagee, being inapplicable to the conditional sales referred to in this Regulation, it is hereby declared not to apply thereto.—*Reg.* I. 1798, *Sect.* 3.

When the lender has possessed the land, and an adjustment of accounts may be necessary, he is to account for the proceeds of the estate, on the principles prescribed in Regulation XV. 1793.

Exception.

225*. A teep for the repayment of money lent on the conditional sales referred to in this Regulation, shall not be considered a legal tender, unless accepted as such by the lender, the proof of which acceptance shall be the lender's giving up the bill of sale or giving a written acknowledgement that he has received back the money lent by him.—*Reg.* I. 1798, *Sect.* 4.

Teeps not to be considered a legal tender in cases referred to, unless accepted by the lender.

Such acceptance how to be proved.

226*. Nothing in this Regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers, (illegal interest excepted) the several provisions in it are to be construed accordingly, and

Nothing in this Regulation to alter the contract between the parties.

And all questions of right to be regularly determined by the Civil Courts.

any question of right between the parties is to be regularly brought before and determined by the Courts of Civil Justice.—*Reg.* I. 1798, *Sect.* 5.

SECT. XLVI.

Rules regarding the Rates of Pottahs.

Rules for determining disputes regarding the rates of pottahs to be granted under Regulation VIII. 1793.

227*. The approbation of the Collector required to be obtained to pottahs by Section 58, Regulation VIII. 1793, is to be considered to extend to the form only. If a dispute shall arise between the ryots and the persons from whom they may be entitled to demand pottahs, regarding the rates of the pottahs (whether the rent be payable in money or kind (it shall be determined in the Dewanny Adawlut of the Zillah in which the lands may be situated according to the rates established in the pergunnahs for lands of the same description and quality as those respecting which the dispute may arise.—*Reg.* IV. 1794, *Sect.* 6.

Rules in the preceding Section applied to the renewal of pottahs that may expire or become cancelled under Regulation XLIV. 1793.

228*. The rules in the preceding Section are to be considered applicable not only to the pottahs which the ryots are entitled to demand in the first instance under Regulation VIII. 1793, but also to the renewal of pottahs which may expire or become cancelled under Regulation XLIV. 1793. And to remove all doubt regarding the rates at which the ryots shall be entitled to have such pottahs renewed, it is declared, that no proprietor or farmer of land, or any other person, shall require ryots whose pottahs may expire or become cancelled under the last mentioned Regulation, to take out new pottahs at higher rates than the established rates of the pergunnah for lands of the same quality and description, but that ryots shall be entitled to have such pottahs renewed at the established rates, upon making application for that purpose to the person by whom their pottahs are to be granted, in the same manner as they are entitled to demand pottahs in the first instance, by Regulation VIII. 1793.—*Reg.* IV. 1794, *Sect.* 7.

[Additional Rule for Benares.]

Distinction as to

229*. Khodkasht or chupperbund ryots, will be entitled

to have their pottahs renewed at the established rates, upon making application for that purpose to the person by whom the pottahs are to be granted, as are also paykasht ryots, provided the proprietor or farmer chooses to permit them to continue to cultivate the land, which they have the option to do or not as they may think proper on the expiration of all paykasht leases, whereas khodkasht ryots cannot be dispossessed as long as they continue to pay the stipulated rent.—*Extract from Reg.* LI. 1795, *Sect.* 10.

the permanency of tenure between the khodkasht and paykasht ryots.

[The two following paragraphs 230, and 231, contain Additional Rules for the Ceded and Conquered Provinces.]

230*. No zemindars, independent talookdars, or other actual proprietors of land, after having engaged for the triennial, quarterial, or other periodical assessment of their estate, under the proclamation specified in Section 29, Regulation XXV. 1803, and the further provisions stated in that Regulation, and under Regulation XXVII. 1803, nor any persons on their behalf, shall dispose of a dependant talook, or other land tenure of whatever denomination, to be held at the same or at any jumma, or shall fix, at any amount, the jumma of an existing dependant talook, or other land tenure, for a term extending beyond the term of their own existing engagements with Government, nor let any lands in farm, nor grant pottahs to ryots or other persons for the cultivation of lands, for a term extending beyond the term of their own lease from Government. This rule and prohibition shall be considered to be in force, until a permanent settlement shall be concluded, under the Regulations abovementioned; and any lease or engagement, given or received, in opposition thereto, shall be void and of no effect, as far as regards the amount of rent thereby illegally stipulated, but without affecting any other rights which the parties respectively may possess, or to which they may be entitled.—*Reg.* XLVII. 1803, *Sect.* 2, *Cl.* 1.

Jumma of dependant talooks, or other land tenure, not to be fixed, nor forms or pottahs granted, for a term extending beyond the term of the engagements of proprietors of land with Government, until a permanent settlement shall be concluded.

231*. No zemindars, independent talookdars, or other actual proprietors of land, with whom a permanent settlement shall be hereafter concluded, for the fixed and perpetual assessment of their respective estates, under the provisions

Nor for a term exceeding ten years after a permanent settlement shall be concluded.

specified in Regulations XXV. and XXVII. 1803, nor any persons on their behalf shall dispose of a dependant talook, or other land tenure, to be held at the same or at any jumma, or fix, at any amount, the jumma of an existing dependent talook, or other tenure, for a term exceeding ten years; nor let any lands in farm, nor grant pottahs, to ryots or other persons, for the cultivation of land, for a term exceeding ten years. Nor shall it be lawful for any zemindar, independant talookdar, or other actual proprietor of land, who may have entered into an engagement with any dependant talookdar, fixing the jumma of his talook for a term not exceeding ten years, or let any lands in farm, or granted pottahs for the cultivation of lands for a term not exceeding ten years, to renew such engagement, lease, or pottah, at any period before the expiration of it, (with the exception specified in the following clause) excepting in the last year, at any time during which it shall be lawful for the parties to renew such engagement, lease, or pottah, upon the same or any other terms, for a term not exceeding ten years, calculated from the expiration of the year in which such renewal may take place. All evasions of the prohibitions contained in this clause, by entering into two separate engagements, leases, or pottahs, at the same time: dating an engagement, lease or pottah, subsequent to the period at which it may have been actually executed; or by any other device; shall be considered as an infringement of them; and every engagement, fixing the jumma of a dependant talôokdar, or other tenant of land, and every lease or pottah which has been or shall be concluded or granted, in opposition to such prohibitions, is declared to be null and void, as far as respects the jumma or rent thereby illegally stipulated; but without affecting any other rights which the parties respectively may possess, or to which they may be entitled.—*Reg.* XLVII. 1803, *Sect.* 2, *Cl.* 2.

Nor shall it be lawful (with the following exception) to renew engagements entered into conformably to this Regulation before the expiration of them, excepting in the last year.

All evasions of this rule null and void.

All engagements, leases, and pottahs, which have been or may be granted repugnant to this Section, declared void.

Rules where no established pergunnah rates exist.

231. In cases, in which no established rates of the pergunnah, or local division of the country may be known, pottahs shall be granted, and the collections made, according to the rate payable for land of a similiar description in the places adjacent; but if the leases and pottahs of the tenants

of an estate generally which may consist of an entire village or other local division, be liable to be cancelled under the rules above noticed; new pottahs shall be granted, and the collection made at rates not exceeding the highest rate paid for the same land in any one year within the period of the three last years antecedent to the period at which the leases may be cancelled.—*Reg.* V. 1812, *Sect.* 7.

No proprietor of land, or dependant talookdar, or farmer of land shall cancel the pottahs of khodkasht ryots except in certain specified cases.

232*. No actual proprietor of land or farmer, or persons acting under their authority, shall cancel the pottahs of the khodkasht ryots, except upon proof that they have been obtained by collusion; or that the rents paid by them within the last three years, have been reduced below the rate of the nirkbundy of the pergunnah; or that they have obtained collusive deductions; or upon a general measurement of the pergunnah for the purpose of equalizing and correcting the assessment. The rule contained in this clause is not to be considered applicable to Behar.—*Reg.* VIII. 1793, *Sect.* 60, *Cl.* 2.

Proprietors and farmers of lands how to be proceeded against in case they attempt to encrease the rents of the poppy lands.

233*. If any zemindar or other proprietor of land or any farmer of land, or their representatives, should exact more from the ryots on account of their poppy lands than the established rates, the agent or the ryot from whom such exactions may be made is to be at liberty to prosecute the person guilty of such exactions in the Zillah or City Dewanny Adawlut, the Judge of which shall forthwith enquire into the same, and, on proof of the exaction shall adjudge the person guilty of the offence to restore the amount levied in excess of the established rate, with a further penalty of treble the amount.—*Reg.* XIII. 1816, *Sect.* 17.

SECT. XLVII.

Prohibition of Abwabs, &c.

Process to be observed to prevent imposition on the ryots under the denomination of abwaub, mhatoot, &c.

234*. The impositions upon the ryots, under the denomination of abwaub, mhatoot, and other appellations, from their number and uncertainty, having become intricate to adjust, and a source of oppression to the ryots; all proprietors of land and dependant talookdars, shall revise the same, in

concert with the ryots, and consolidate the whole with the assul, into one specific sum. In large zemindarries, or estates, the proprietors are to commence this simplification of the rents of their ryots, in the pergunnahs where the impositions are most numerous, and to proceed in it gradually, till completed, but so, that it be effected for the whole of their lands by the end of the Bengal year 1198, in the Bengal districts, and of the Fussily and Willaity year 1198, in the Behar and Orissa districts, these being the periods fixed for the delivery of pottahs as hereafter specified.—*Reg.* VIII. 1793, *Sect.* 54.

Proprietors, and farmers of land, prohibited imposing any new abwaub or mhatoot on the ryots, and penalty in the case of disobedience.

235*. No actual proprietor of land, or dependant talookdar, or farmer of land, of whatever description, shall impose any new abwaub or mhatoot upon the ryots, under any pretence whatever. Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed, and if, at any future period, it be discovered, that new abwaub or mhatoot have been imposed, the person imposing the same, shall be liable to this penalty, for the entire period of such impositions.—*Reg.* VIII. 1793, *Sect.* 55.

SECT. XLVIII.

Form and Contents of Pottahs.

Variations of pottah according to articles of produce admitted under certain restrictions.

236*. It is expected, that in time, the proprietors of land, dependant talookdars, and farmers of land, and the ryots, will find it for their mutual advantage to enter into agreements in every instance for a specific sum, for a certain quantity of land, leaving it to the option of the latter to cultivate whatever species of produce may appear to them likely to yield the largest profit, where however it is the established custom to vary the pottahs for lands according to the articles produced thereon, and while the actual proprietors of land, dependant talookdars, or farmers of land, and ryots in such places, shall prefer an adherence to this custom, the engagements entered into between them, are to specify the quantity of land, species of produce, rate of rent, and amount thereof, with the term of the lease, and a stipulation that in the event of the species of produce being charged, a new en-

gagement shall be executed for the remaining term of the first lease, or for a longer period, if agreed on, and in the event of any new species being cultivated, a new engagement, with the like specification and clause, is to be executed accordingly.—*Reg.* VIII. 1793, *Sect.* 56.

What the pottahs to be delivered to the ryots are to contain.

237*. The rents to be paid by the ryots, by whatever rule or custom they may be regulated, shall be specifically stated in the pottah; which, in every possible case, shall contain the exact sum to be paid by them.—*Reg.* VIII. 1793, *Sect.* 57, *Cl.* 1.

Rule where the rate only can be specified and for payments in kind.

238*. In cases where the rate only can be specified, such as where the rents are adjusted upon a measurement of the lands after cultivation, or on a survey of the crop, or where they are made payable in kind, the rate and terms of payment, and proportion of the crop to be delivered, with every condition, shall be clearly specified.—*Reg.* VIII. 1793, *Sect.* 57, *Cl.* 2.

Certain parts of Regulation VIII. 1793, and Regulation IV. 1794, respecting forms of pottahs and engagements for rent rescinded; and proprieters declared competent to grant leases and receive engagements in such forms as may be convenient to the parties.

239*. Such parts of Regulation VIII. 1793, and of Regulation IV. 1794, as require that the proprietors of land shall prepare forms of pottahs, and that such forms shall be revised by the Collectors, and which declare that engagements for rent contracted in any other mode than that prescribed by the regulations in question, shall be deemed to be invalid, are likewise hereby rescinded; and the proprietors of land shall henceforward be considered competent to grant leases to their dependent talookdars, under-farmers, and ryots, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient and most conducive to their respective interests: Provided, however, that nothing therein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of abwaub, mhatoot, or any other denomination. All stipulations or reservations of that nature shall be adjudged by the Courts of Judicature to be null and void: But the Courts shall notwithstanding maintain and give ef-

Such rule not to realize stipulations for arbitrary or indefinite cesses, which are to be adjudged null and void, but without vitiating the definite Clauses of the engagements.

fect to the definite clauses of the engagements contracted between the parties, or in other words, enforce payment of such sums as may have been specifically agreed upon between them.—*Reg.* V. 1812, *Sect.* 3.

Restrictions in the cubbooleats not repealed by any Regulation, to be considered in force.

240*. Such of the restrictions on actual proprietors of land, and farmers who hold their farms immediately of Government, as are set forth in their respective cubbooleats, and are not repealed by any Regulation printed and published in the manner directed in Regulation XLI. 1793, are to be considered in full force.—*Reg.* VIII. 1793, *Sect.* 67, *Cl.* 1.

Actual proprietors to let their remaining lands under the prescribed restrictions in whatever manner they may think proper.

241*. The zemindar or other actual proprietor of land, is to let the remaining lands of his zemindarry or estate, under the prescribed restrictions, in whatever manner he may think proper, but every engagement contracted with underfarmers, shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land, or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount.—*Extract from Reg.* VIII. 1793, *Sect.* 52.

SECT. XLIX.

Distribution of Pottahs.

Ryots may demand pottahs of proprietors of land, and farmers, who are also required to grant them.

Penalty in case of refusal.

242*. A ryot, when his rent has been ascertained and settled, may demand a pottah from the actual proprietor of land, dependant talookdar, or farmer, of whom he holds his lands, or from the person acting for him; and any refusal to deliver the pottahs, upon being proved in the Court of Dewanny Adawlut of the Zillah, shall be punished by the Court, by a fine proportioned to the expense and trouble of the ryot in consequence of such refusal. Actual proprietors of land, dependant talookdars, and farmers, are also required to cause a pottah for the adjusted rent to be prepared and tendered to the ryot; either granting the same themselves, or intrusting their agents to grant the same. No farmer

Restrictions on

however, without special permission from the proprietor of the lands, or (if the lands form part of a dependant talook) the dependant talookdar, shall grant a pottah extending beyond the period of his own lease, nor shall any agent grant a pottah without authority from the proprietor, or dependant talookdar, or the manager of disqualified proprietors.—*Reg.* VIII. 1793, *Sect.* 59.

farmers and agents in granting pottahs.

243*. The ryots in the different parts of the country frequently omitting or refusing to take out or receive pottahs, although the persons from whom they are entitled to demand them, are ready to grant them in the form, and on the terms, prescribed by the Regulations, it is declared, that if a proprietor or farmer of land, or a dependant talookdar, after the approbation of the Collector to the form of the pottah or pottahs for the lands in his estate or farm shall have been obtained, as prescribed in Section 58, Regulation VIII. 1793, shall fix up in the principal cutcherry or cutcherries of his estate or farm, a notification in writing under his seal and signature, specifying that pottahs according to the form approved, and at the established rates, will be immediately granted to all ryots who may apply for them, and stating where and when and by whom pottahs will be delivered, the notification shall be considered as a legal tender of a pottah, and the proprietor of land, the farmer, or the dependant talookdar shall be deemed to have complied with the orders in Section 59, Regulation VIII. 1793, and the persons so tendering pottahs shall be entitled to recover the rents due to them from such ryots, either by the process of distraint laid down in Regulation XVII. 1793, or by suit in the Dewanny Adawlut.—*Reg.* IV. 1794, *Sect.* 5.

Rules for cases in which ryots omit or refuse to receive the prescribed pottahs.

SECT. L.

Period of Leases.

244*. Section 2, Regulation XLIV. 1793, Section 2, Regulation L. 1795; and Clause Second, Section 2, Regulation XLVII. 1803, by which the proprietors of land, paying revenue to Government, are precluded from granting leases for a period exceeding ten years, are hereby re-

Rules contained in Section 2, Regulation XLIV. 1793, Section 2, Regulation L 1795, and Clause Second, Section 2, Regulation XLVII. 1803,

precluding proprietors of lands paying revenue to Government, from granting leases for a longer period than ten years, rescinded.

scinded; and proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and tenants, and most conducive to the improvement of their estates.—*Reg.* V. 1812, *Sect.* 2.

Explanation of the intent of Section 2, Regulation V. 1812, as to granting leases in perpetuity or otherwise.

245*. Doubts having arisen on the construction of Section 2, Regulation V. 1812, it is hereby explained, that the true intent of the said Section, was to declare proprietors of land competent to grant leases for any period, even to perpetuity, and at any rent, which they might deem conducive to their interests. Provided, however, that nothing contained in the former or present Regulation, shall be construed to empower persons holding a restricted interest in estates, whether for life or for other limited period, or subject to control or restriction in the use or disposal of the property, to grant leases extending beyond the term of their own interest in the property, or exceeding their power or authority over it.—*Reg.* XVIII. 1812, *Sect.* 2.

[The two following Paragraphs (246, 247) apply to the Ceded and Conquered Provinces.]

No zemindar or proprietor shall grant leases for a term extending beyond the term of his own engagements with Government.

246*. No zemindar or other proprietor of land in the Ceded and Conquered Provinces shall grant leases or fix the rent of any land tenure for a term exceeding ten years; or if the term of his own engagement with Government be less than ten years, extending beyond such less term.—*Reg.* XIV. 1812, *Sect.* 2.

Every evasion of this prohibition to be considered as an infringement of this rule, and leases so granted to be null and void.

247*. Any evasion of this prohibition by entering into separate engagements or leases to take effect successively, or by dating an engagement or release on a day other than that on which it was actually executed, or by any other device, shall be considered as an infringement of it. And every lease or engagement fixing the rent, which has been or shall be concluded or granted in opposition to this prohibition, is declared to be null and void.—*Reg.* XIV. 1812, *Sect.* 3.

Rule for appointing the assessment on shares of estates when divided.

248*. When a division of a joint estate shall be made on the application of the proprietors, or pursuant to the decree of a Court of justice, the fixed public revenue assessed upon

the whole estate, shall be apportioned on the several shares agreeably to the principles prescribed in Section 10, Regulation I. 1793, and Section 7, Regulation XXVII. 1795, without regard to any engagements that may subsist between the proprietors and their dependant talookdars, (excepting the dependant talookdars described in Section 7, Regulation XLIV. 1793,) under-farmers, or ryots. But all leases made in conformity to Sections 2, and 3, Regulation V. 1812, and Section 2, of this Regulation, shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of Court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift, or otherwise.—*Reg.* XVIII. 1812, *Sect.* 3, *Cl.* 2.

Not to prohibit grants or leases for any term for the purposes herein specified, except to British subjects and Europeans.

249*. Nor to prohibit actual proprietors of land granting without the sanction of Government or its officers, to any person, not being a British subject or a European, a lease or pottah for ground for any term of years, or in perpetuity for the erection of dwelling-houses or buildings for carrying on manufactures, or for gardens, or other purposes, and for offices for such houses or buildings.—*Reg.* XLIV. 1793, *Sect.* 8.

SECT. LI.

Discharge of Rent.

Prohibition under penalties, to landholders, farmers and their tenants, to receive or pay the rents by anticipation.

250*. The landholders and farmers are forbidden to demand or receive, and the ryots and other under-tenants are forbidden to pay, any part of the rents receivable by the farmer and payable by the latter, before the stipulated or usual period of payment, according to the kistbundy or other engagement, or established local usage, and no person hereafter making anticipated payments, against this prohibition, or producing receipts for such, whether collusive or otherwise, shall be entitled to credit for the amount from the officers of Government who may attach the lands or farm, or from the landholder or farmer making the attachment, if it be made for arrears due from an under-tenant, under the

Credit not to be allowed for any payment made to a defaulter after proclamation of the attachment.

provisions contained in this regulation. Nor shall credit be allowed for any payment made to a defaulter, after proclamation of the attachment of his estate or farm, until further proclamation be made that such attachment has been withdrawn; unless it can be clearly shewn that such proclamation, which is to be made as public as possible throughout the attached lands immediately on the attachment's taking place, was notwithstanding unknown to the party making payment to the defaulter at the time when such payment may have been made. Provided however that nothing herein contained, shall be understood to exonerate the defaulter from crediting to his under-tenants, or otherwise accounting for, all sums received by him, whether in anticipation of the rents, or subsequent to the attachment of his estate or farm: the above restrictions having reference to the attachment only.—*Extract from Reg.* VII. 1799, *Sect.* 23, *Cl.* 3.

Exception.

Proviso.

Rules for adjusting the mofussil kistbundies.

251*. The proprietors of land, dependant talookdars, and farmers of land, of every description, are to adjust the instalments of the rents receivable by them from their under-renters and ryots, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule.—*Reg.* VIII. 1793, *Sect.* 64.

Proprietors of land, dependant talookdars, farmers, and their agents, to give receipts for all sums received as rent or revenue, under the penalty herein specified.

252*. Every proprietor of land, dependant talookdar, or farmer of land, of whatever description, and their agents of every gradation, receiving rents or revenues from dependant talookdars, under-farmers, ryots, or others, are to give receipts for all sums received by them; and a receipt in full on the complete discharge of every obligation. Any person to whom a receipt may be refused, on his establishing the same in the Dewanny Adawlut of the Zillah, shall be entitled to damages from the party who received his rent or revenue, and refused the receipt, equal to double the amount paid by him.—*Reg.* VIII. 1793, *Sect.* 63, *Cl.* 1.

[Exception in the Zillah of Ramghur.]

Behar portion of the Ramghur Zillah exempted from

253*. The rules contained in Sections 54, 56, 57, 58, 59, and 61, (Par. 234, 236, 237, 238, 242,) Regulation VIII.

1793, are not to be considered applicable to that part of the Zillah of Ramghur which is included in the Soubah of Behar.—*Reg.* IV. 1794, *Sect.* 2. the rules regarding pottahs.

SECT. LII.

General Rules regarding Putnee Talooks.

[The rules contained in Sections 52, 53, 54, 55, 56, concerning Putnee Talooks, apply only to Bengal, including Midnapore.]

254*. It is hereby declared that any leases or engagements for the fixing of rent now in existence, that may have been granted or concluded for a term of years, or in perpetuity, by a proprietor under engagements with Government, or other person competent to grant the same, shall be deemed good and valid tenures, according to the terms of the covenants or engagements interchanged, notwithstanding that the same may have been executed before the passing of Regulation V. 1812, and while the rule of Section 2, Regulation XLIV. 1793, which limited the period for which it was lawful to grant such engagements to ten years, and declared all that might be entered into for a longer term to be null and void, was in full force and effect; and notwithstanding that the stipulations of the said leases may be in violation of the rule in question:—provided however that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government, from the liability to be cancelled on sale of the said estates for arrears of the said revenue, under the Rule of Section 5, Regulation XLIV. 1793, unless specially exempted from such liability by the rule in question, or by any other specific rule of the Regulations in force.—*Reg.* VIII. 1819, *Sect.* 2. Leases fixing rent in perpetuity, or for a longer term than ten years, declared valid, though executed while Section 2, Regulation XLIV. 1793, was in force.

255*. The tenures known by the name of putnee talooks as described in the preamble to this Regulation, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held. They are heritable by their conditions; and it is hereby further declared, that they are capable of being transferred by sale, Putnee tenures declared valid, transferable and answerable for debt.

gift or otherwise, at the discretion of the holder, as well as answerable for his personal debts, and subject to the process of the Courts of Judicature, in the same manner as other real property.—*Reg.* VIII. 1819, *Sect.* 3, *Cl.* 1.

SECT. LIII.

Alienation of Putnee Talooks.

Putneedars' right of underletting, declared.

256*. Putnee talookdars are hereby declared to possess the right of letting out the lands composing their talooks in any manner they may deem most conducive to their interest, and any engagements so entered into by such talookdars with others shall be legal and binding between the parties to the same, their heirs, and assigness :—provided however, that no such engagements shall operate to the prejudice of the right of the zemindar to hold the superior tenure, answerable for any arrear of his rent, in the state in which he granted it, and free of all incumbrance, resulting from the act of his tenant.—*Reg.* VIII. 1819, *Sect.* 3, *Cl.* 2.

Inferior tenures held under similar title deeds will be deemed to confer a similar interest to that provided for putnee talooks in Section 3.

257*. If the holder of a putnee talook shall have underlet in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble to this Regulation, the holder of such a tenure shall be deemed to have acquired all the rights and immunities declared in the preceding Section to attach to putnee talooks, in so far as concerns the grantor of such under tenure. The same construction shall also hold in the case of putnee talooks of the third or fourth degree.—*Reg.* VIII. 1819, *Sect.* 4.

Zemindar not entitled to refuse to give effect to a transfer.

258*. The right of alienation having been declared to vest in the holder of a putnee talook, it shall not be competent to the zemindar or other superior, to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility, and by accepting the engagements of the transferee.

But may demand his fee.

In conformity however with established usage, the zemindar or other superior shall be entitled to exact a fee upon every such alienation, and the rate of the said fee is hereby fixed at two per cent. on the jumma or annual rent of the interest

Fee fixed at two per cent. on the jumma.

transferred, until the same shall amount to one hundred Rupees, which sum shall be the maximum of any fee to be exacted on this account. The zemindar shall also be entitled to demand substantial security from the transferee or purchaser, to the amount of half the jumma or yearly rent, payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure. The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of Court, as to all other alienations, but it shall not apply to the case of sale for an arrear in the rent due to the zemindar or other superior, under the rules hereinafter contained. The purchaser at such a sale shall be entitled to have his name registered, and to obtain possession without fee, though of course liable to be called on to give security under the conditions of the tenure purchased.—*Reg.* VIII. 1819, *Sect.* 5.

But the maximum one hundred rupees.

May also demand security, as far as half the jumma.

Above rules to apply to sales in execution and all alienations.

But no fee on sale for arrears.

259*. It shall be competent to the zemindar or other superior to refuse the registry of any transfer, until the fee above stipulated be paid, and until substantial security to the amount specified be tendered and accepted:—provided however that if the security tendered by any purchaser or transferee, should not be approved by the zemindar, and the party tendering it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority, if satisfied of the sufficiency of the security tendered, shall issue an injunction on the zemindar to accept it, and give effect to the transfer without delay. It is hereby provided that the rules of this and of the preceding Section shall not be held to apply to transfers of any fractional portion of a putnee talook, nor to any alienation other than of the entire interest, for no apportionment of the zemindar's reserved rent can be allowed to stand good, unless made under his special sanction.—*Reg.* VIII. 1819, *Sect.* 6.

Zemindar may refuse sanction to transfer, till fee and security be tendered.

Sufficiency of security, if contested, to be determined by appeal to Civil Court.

260*. In case of the sale of a putnee tenure in execution of a judgment of Court, if the purchaser do not within the period of one month from the sale conform to the rules of

Upon public sale, if security be not tendered within one month, Zemindar may attach.

Section 5, of this Regulation, in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the zemindar or other superior shall be entitled of his own authority to send a suzawul to attach and hold possession of the tenure, until the forms prescribed be observed. In case also of the sale of a putnee tenure for arrears of the rent due upon it, under the rules of this Regulation, if security be required by the zemindar and the purchaser fail to furnish the same within one month of the date of sale, the zemindar shall similarly be entitled to send a suzawul to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given. Attachments made under this Section shall be regarded as trusts for the benefit and at the risk of the purchasers; consequently after deducting the rent due and the expense of attaching, any surplus that may be yielded by the collections, shall be held in deposit for such purchaser; but if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the zemindar or other superior making the attachment, shall be received as primâ facie evidence to warrant process for an arrear so accruing.—*Reg.* VIII. 1819, *Sect.* 7.

Attachment to have the effect of a trust.

SECT. LIV.

Sale of Putnee Talooks for Arrears of Rent.

Putnee tenures declared not voidable for arrears.

261*. In case of an arrear occuring upon any tenure of the description alluded to in the First Clause of this Section, (Par. 255,) it shall not be liable to be cancelled for the same, under the rule contained in the Seventh Clause of Section 15, Regulation VII. 1799, for leases conveying a limited interest in the land; but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale, beyond the amount of the arrear of rent due;—subject however to the provisions contained in Section 17, of this Regulation.—*Reg.* VIII. 1819, *Sect.* 3, *Cl.* 3.

First sale to be applied for on the first of Bysakh.

262*. On the first day of Bysakh, that is, at the commencement of the following year from that of which the rent is due, the zemindar shall present a petition to the Civil Court of the district, and a similar one to the Collector, containing a specification of any balances that may be due to him on account of the expired year from all or any talookdars or other holders of an interest of the nature described in the preceding Clause of this Section. The same shall them be stuck up in some conspicuous part of the cuctherry, with a notice that if the amount claimed be not paid before the first of Jyte following, the tenures of the defaulters will on that day be sold by public sale in liquidation. Should however, the first of Jyte fall on a Sunday, or holiday, the next subsequent day, not a holiday, shall be selected instead: a similar notice shall be stuck up at the sudder cutcherry of the zemindar himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent, to be similarly published at the cutcherry, or at the principal town or village upon the land of the defaulter. The zemindar shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the mofussil shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager for the same; or in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot. If it shall appear from the tenor of the receipt or attestation in question, that the notice has been published at any time previous to the fifteenth of the month of Bysakh, it shall be a sufficient warrant for the sale to proceed upon the day appointed. In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the cutcherry of the nearest Moonsiff, or if there should be no Moonsiff, to the nearest thanna, and there make voluntary oath of the same having been duly published—certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.—*Reg.* VIII. 1819, *Sect.* 8, *Cl.* 2.

Notice to be published that it will take place on the first of Jyte.

Notice to be sent into the mofussil.

Rules for serving it.

263*. On the first day of Kartick in the middle of the

Mid year sale to

be applied for on the first of Kartick.

year, the zemindar shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year up to the end of the month of Asin, and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of Aughun, unless the whole of the advertised balance shall be paid before the date in question, or so much of it as shall reduce the arrear, including any intermediate demand for the month of Kartick to less than one fourth, or a four anna proportion of the total demand of the zemindar, according to the kistbundy, calculated from the commencement of the year to the last day of Kartick.—*Reg.* VIII. 1819, *Sect.* 8, *Cl.* 3.

Notice as above for sale the first of Aughun.

If arrear be not less than one fourth of demand.

Register to conduct the sale.

264*. All sales of saleable tenures applied for under the rules of this Regulation, shall be made in public cutcherry by the Register of the Civil Court, or in his absence by the person in charge of the office of Judge or of Magistrate of the district, within which the lands may be situated; the land shall be sold to the highest bidder, and every one not the actual defaulter, shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter: fifteen per cent. of the purchase money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose, or will be produced within two hours. If the fifteen per cent. be not paid in cash or in notes of the Bank of Bengal, within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be resold on the same day, and if the remainder of the purchase money be not paid by noon of the eighth day, notice shall be given of resale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the bazar of the sudder station of the Zillah, after which the lot shall be resold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen per cent. already made, (which shall be in such case

Rules for bidding, &c.

Fifteen per cent. to be paid on sale.

Or lot to be resold after two hours.

Failing remainder, resale on ninth day after.

regarded as part of the proceeds of the sale,) and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the Civil Courts.—*Reg.* VIII. 1819, *Sect.* 9.

Under tenures how to be brought to sale for arrears.

265*. Under tenures held under engagements similar to those executed between the zemindar and putneedar, having been declared not to be voidable for an arrear of the rent fixed upon them in perpetuity, it will be necessary that the person to whom the said rent may be payable, should (in case he be desirous of holding the tenure answerable in the manner provided for by stipulation in the deeds interchanged) proceed according to the rules of Section 15, Regulation VII. 1799, and the general Regulations, to have the sale effected at the end of the year, in the same manner as heretofore.—But it is hereby provided, that every such sale shall be public, and be conducted by the Register or Acting Register of the Zillah Court, or in his absence, by the person in charge of the office of Judge or of Magistrate, under the rules of this Regulation, as far as the same may be applicable; ten days' notice shall be given of such sales, by advertisement, to be stuck up at the cutcherries of the Court and Collector.—*Reg.* VIII. 1819, *Sect.* 16.

Sale not to be stayed except the arrear claimed be lodged.

But action to lie for its reversal.

266*. Should the balance claimed by a zemindar on account of the rent of any under tenure, remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve in the manner provided for in Sections 9, and 10, of this Regulation, nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged. It shall however be competent to any party desirous of contesting the right of the zemindar to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the zemindar for the reversal of the same, and upon establishing a sufficient plea to obtain a decree with full costs and damages. The purchaser shall be made a party in such suits, and upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of

the zemindar or person at whose suit the sale may have been made.—*Reg.* VIII. 1819, *Sect.* 14, *Cl.* 1.

SECT. IV.

Power of Under-tenant to stay Sale.

Reason for allowing under-tenants a means of staying sale.

267*. With reference to the injury that may be brought upon the holder of a talook of the second degree, by the operation of the preceding rules, in case the proprietor of the superior tenure purposely withholds the rent due from himself to the zemindar, after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such talookdars the means of saving their tenures from the ruin that must attend such a sale, and the following rules have accordingly been enacted for this purpose.—*Reg.* VIII. 1819, *Sect.* 13, *Cl.* 1.

Manner of doing so.

268*. Whenever the tenure of a talookdar of the first degree may be advertised for sale in the manner required by the Second and Third Clauses of Section 8, of this Regulation, for arrears of rent due to the zemindar, the talookdars of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into Court the amount of balance that may be declared due by the person attending on the part of the zemindar on the day appointed for sale, in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and should the amount lodged be sufficient, the sale shall not proceed, but after making good to the zemindar the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.—*Reg.* VIII. 1819, *Sect.* 13, *Cl.* 2.

By lodging the advertised balance.

In case of rent due being lodged.

269*. If the amount so lodged shall be rent due by the inferior talookdar to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought

Credit to be given.

forward against him or them by the proprietor of the advertised tenure on account of the year or months for which the notice of sale may have been published.—*Reg.* VIII. 1819, *Sect.* 13, *Cl.* 3.

In case of advance from private funds,

270*. If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the talook so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereon, in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto. If the defaulter shall desire to recover his tenure from the hands of the person or persons, who by making the advance may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve per cent. per annum, up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realized from the usufruct of the tenure.—*Reg.* VIII. 1819, *Sect.* 13, *Cl.* 4.

to have the effect of mortgage.

Defaulter how to recover possession.

SECT. LVI.

Rights transferred to Purchasers.

Tenure to be sold free of incumbrance by act of defaulter.

271*. It is hereby declared, that any talook or saleable tenure that may be disposed of at public sale under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or

assignees; unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said talook may have been held. No transfer by sale, gift or otherwise, no mortgage or other limited assignment shall be permitted to bar the indefeasible right of the zemindar to hold the tenure of his creation answerable in the state in which he created it, for the rent, which is in fact his reserved property in the tenure; except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such zemindar.—*Reg.* VIII. 1819, *Sect.* 11. *Cl.* 1.

No under lease to stand after sale.

272*. In like manner, on sale of a talook for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land, and to collect the rents of the ryots; this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.—*Reg.* VIII. 1819, *Sect.* 11, *Cl.* 2.

Exception in favour of bonâ fide engagements with ryots.

273*. Provided nevertheless, that nothing herein contained shall be construed to entitle the purchaser of a talook or other saleable tenure intermediate between the zemindar and actual cultivators, to eject a khodkast ryot, or resident and hereditary cultivator, nor to cancel bonâ fide engagements made with such tenants by the late incumbent, or his representative, except it be proved in a regular suit, to be brought by such purchaser, for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor.—*Reg.* VIII. 1819, *Sect.* 11, *Cl.* 3.

SECT. LVII.

Appointment of Ministerial Officers in the Courts of Sudder Ameens.

Sudder Ameens and Principal Sudder Ameens competent to appoint and remove their own officers.

274. The Sudder Ameens and Principal Sudder Ameens are authorized to appoint and remove the ministerial officers of their respective Courts, without reference to any other authority.—*Reg.* V. 1831, *Sect.* 25, *Cl.* 1.

Such officers liable for misconduct to the same penalties as other officers of the Judge's Court.

275. The ministerial officers of the Courts of the Sudder Ameens and Principal Sudder Ameens shall be liable to the same penalties for acts of corruption, extortion, or other misconduct, as the ministerial officers of the Zillah and City Courts are now liable under the general Regulations.—*Reg.* V. 1831, *Sect.* 25, *Cl.* 2.

[For these penalties, Vide CHAP. III. Par. 50—61.]

SECT. LVIII.

Powers of Sudder Ameens in Criminal Cases.

Magistrates may refer petty complaints to their native law officers.

276. The Zillah and City Magistrates are authorized to refer for trial to the Hindoo and Mahomedan Law officers of their respective Courts, all complaints or charges brought before them for petty offences, such as abusive language, calumny, inconsiderable assaults or affrays, and all charges of petty thefts when unattended with any aggravating circumstances.—*Reg.* III. 1821, *Sect.* 3, *Cl.* 1.

And also cases heretofore referrible to assistants in the mode prescribed by the existing Regulations.

277. The Magistrates of the Zillah and City Courts shall be competent to refer to their Law officers any criminal cases, which they are already authorized by former Regulations to refer to their assistants, and in the mode of making the reference, and in the subsequent stages of the proceeding, the Magistrates and the Law officers shall be guided by the provisions hitherto in force relative to such cases.—*Reg.* III. 1821, *Sect.* 3, *Cl.* 2.

Such law officers empowered to exercise the powers

278. The Law officers of the Zillah and City Courts in the decision of criminal cases so referred to them, are hereby

vested in assistants to Magistrates under the Regulations in force.

Exposition of the rules referred to in such cases.

authorized to exercise the same powers as those vested in the assistants to the Magistrates, by Section 20, Regulation IX. 1807, and by the other Regulations therein referred to; that is, in cases referred to them for trial, they shall not sentence a person convicted of abusive language, or calumny, or inconsiderable assault or affray, to a more severe sentence than fifteen days' imprisonment, and a fine of fifty Rupees with an eventual commutation, if the fine be not paid, to further confinement for fifteen days more, making the entire term of imprisonment, if the fine be not paid, one month of thirty days. Nor shall they sentence a person convicted of petty theft to a more severe corporal punishment than thirty ratans, and imprisonment for a period of one month. Persons sentenced to imprisonment by the Law officers shall not, during their imprisonment, be confined in irons or in fetters, except in cases in which the misconduct of such individual, during his imprisonment, shall appear to the Magistrate to render such measure necessary for his safe custody.—*Reg.* III. 1821, *Sect.* 3, *Cl.* 3.

Persons imprisoned under sentences of the law officers not to be confined in irons or fetters unless the Magistrate considers such a measure necessary.

Law officers to furnish the Magistrates with monthly statements of decisions passed by them.

279. The Law officers of the Zillah and City Courts shall forward to the Magistrates on the fifth day of each month, a statement shewing the manner in which the cases referred to them may have been disposed of, in order that the same after having been carefully inspected by the Magistrates, with the view of noticing and eventually correcting any irregularities, may be incorporated in the periodical reports required to be submitted to the superior Courts.—*Reg.* III. 1821, *Sect.* 3, *Cl.* 4.

Foregoing rules applicable to Sudder Ameens empowered under Section 5, Regulation II to try civil suits exceeding one hundred and fifty rupees, and to those appointed to the stations of Joint Magistrates.

280. The foregoing provisions are hereby declared to be equally applicable to any of the Sudder Ameens, who may be empowered under Section 5, Regulation II. 1821, to try civil suits exceeding in value or amount the sum of one hundred and fifty Rupees, and likewise to all Sudder Ameens whether vested with such powers or not, who may be appointed to the stations of the Joint Magistrates, and the latter officers are hereby authorized to employ such Sudder Ameens in the manner above specified.—*Reg.* III. 1821, *Sect.* 4.

Limitation of time for appeals from decisions of Assistants and Sudder Ameens, and from the orders of the Magistrates to the Courts of Request.

281. No appeal shall be admitted from the order of an assistant or a Sudder Ameen in cases referred to them of a criminal nature by the Magistrate, or Joint Magistrate, unless preferred within the period of one month from the date of such order.—*Extract from Reg.* III. 1821, *Sect.* 5, *Cl.* 1.

Section 3, Regulation III. declared applicable to Principal Sudder Ameens.

Additional powers to be exercised by those officers in criminal matters.

282. In addition to the Rules contained in Section 3, Regulation III. 1821, which are hereby declared applicable to the Principal Sudder Ameens appointed under this Regulation, it shall be competent to the Magistrate to refer to a Sudder Ameen or Principal Sudder Ameen, not being a Mahomedan Law officer, any Criminal case for investigation, though such case may not be finally cognizable by such Sudder Ameen, provided however, that no commitment be made by those officers, and their powers of awarding punishment in Criminal matters, under the existing Regulations, be not exceeded.—*Reg.* V. 1831, *Sect.* 18, *Cl.* 6.

CHAPTER III.

Principal Sudder Ameens.

SECT. I.

Appointments.

The Governor General in Council may appoint Principal Sudder Ameens.

1. It shall be competent to the Governor General in Council to appoint to any Zillah or City Jurisdiction, one or more Principal Sudder Ameens with the powers hereinafter specified.—*Reg.* V. 1831, *Sect.* 17, *Cl.* 1.

Persons eligible to the office and how to be nominated.

2. The office of Principal Sudder Ameen shall be open to natives of India of any class or religious persuasion—The persons selected for the office shall be appointed by the Governor General in Council, and shall receive their Sunnuds or Commissions from Government, under the signature of the Secretary in the Judicial Department.—*Reg.* V. 1831, *Sect.* 17, *Cl.* 2.

SECT. II.

Monthly Allowances.

Monthly allowances to be fixed by the Governor General in Council.

3. The Principal Sudder Ameens will receive such monthly allowances as may be fixed by the Governor General in Council.—*Reg.* V. 1831, *Sect.* 17, *Cl.* 3.

SECT. III.

Declaration to be made by them.

Declaration to be made by the Principal Sudder Ameens.

4. Every person appointed to the office of Principal Sudder Ameen shall, previously to entering upon the execution of the duties of his situation, make and subscribe before the Judge of the Zillah or City in which he may be employed, the solemn declaration required by Section 2, Regulation XVIII. 1817.—*Reg.* V. 1831, *Sect.* 17, *Cl.* 4.

Rules in force respecting a prescribed oath, to be taken by certain native officers, declared subject to modification.

5. Such parts of the Regulations in force as direct that the Law Officers, or Ministerial native Officers, of the Court of Judicature, Civil or Criminal, or any other native officers employed in the Judicial, Revenue, or Commercial Department, or in any public office whatever, shall take and subscribe an oath, previously to their entering upon the discharge of the duties of the office to which they may be respectively appointed, or which, in like manner, prescribe an oath of office to be taken by the Moonsiffs and Sudder Ameens; and by the native pleaders attached to the Civil Courts are hereby declared subject to the following modification:—*Reg.* XVIII. 1817, *Sect.* 2, *Cl.* 1.

A solemn declaration substituted for the prescribed oath in such cases.

6. Instead of the prescribed oath, which is required by the Regulations in force, the several native officers referred to in the above Clause, shall hereafter make and subscribe, in open Court, or in the established public office, before the Judges, Boards, Collectors, Commercial Residents and Agents, or other European authorities to which they may be respectively subject, a solemn declaration to the same effect with the form of oath heretofore prescribed, except that the word "declare" shall be substituted for "swear;" and that the declarer shall not be sworn thereto.—*Reg.* XVIII. 1817, *Sect.* 2, *Cl.* 2.

By whom such declarations to be attested, and the above rule to be enforced.

7. The Judges, Boards, Collectors, or other European officers, before whom such declarations are required to be made and subscribed, shall attest the same as publickly read and subscribed before them, in pursuance of the above Clause, and shall be careful to enforce a due observance of the rule therein contained, by the native officers appointed to act under them respectively.—*Reg.* XVIII. 1817, *Sect.* 2, *Cl.* 3.

SECT. IV.

Suits cognizable by them.

Suits for claims of what amount and of what nature cognizable by Princi-

8. The Zillah and City Judges are authorized to refer to the Principal Sudder Ameens any original suits depending or instituted in their Courts for money or other personal

property, or for the property or possession of land or other real property, the amount or value of which, calculated according to the rules specified in No. 8 of the Schedule B. referred to in Section 17, Regulation X. 1829, may not exceed five thousand Rupees—Provided that no suit be referred to a Principal Sudder Ameen in which he himself, or his relatives, or dependants, or the vakeels or officers of his Court shall be a party, or in which an European British subject or an European Foreigner, or an American shall be a party.—*Reg.* V. 1831, *Sect.* 18, *Cl.* 1. pal Sudder A meens.

SECT. V.

Mode of investigating Suits.

9. The Principal Sudder Ameens are themselves to investigate the suits referred to them in a public cutcherry or Court room, and are not to allow their officers, servants, or dependants, or any other person to interfere therein.—*Reg.* V. 1831, *Sect.* 18, *Cl.* 2. Suits where and how to be investigated by Principal Sudder Ameens.

SECT. VI.

Vakeels.

10. If shall be competent to the Zillah and City Judge to authorize any of the Vakeels of his Court, or of those attached to the Sudder Ameens, to practice in the Court of the Principal Sudder Ameen.—*Reg.* V. 1831, *Sect.* 18, *Cl.* 3. What vakeels to practice in their Courts.

SECT. VII.

Rules for the Trial and Decision of original Suits and Appeals.

11 In the trial and decision of original suits and appeals referred to them, the Principal Sudder Ameen shall be guided by the rules established for the conduct of business in the Courts of the Sudder Ameens. And in points not expressly provided for by those rules, they shall observe as nearly as may be practicable the rules prescribed in the Regulations for the guidance of the Zillah and City Courts. —*Reg.* V. 1831, *Sect.* 18, *Cl.* 4. Rules to be observed by Principal Sudder Ameens in the trial and decision of cases that come before them.

SECT. VIII.

Process how to be served.

Process how to be issued.

12. The rule contained in Clause Fourth, Section 15 of this Regulation, shall be applicable to the processes issued by the Principal Sudder Ameens. (Vide CHAP. II. Par. 40.)—*Reg.* V. 1831, *Sect.* 18, *Cl.* 5.

SECT. IX.

Powers to be exercised in Criminal Matters.

13. [Vide CHAP. II. Par. 276, 277, 278, 279, 280, 281, 282.]

SECT. X.

Appeals.

Rules hitherto in force regarding reference of appeals from the decisions of Moonsiffs, to Sudder Ameens or Registers.

14. Appeals admitted from the decisions of the Moonsiffs have been hitherto referred, at the discretion of the Zillah and City Judges, to the Sudder Ameens, or Registers duly empowered to try them, under the rules contained in Clause Fourth, Section 7, and Clause Fourth, Section 9, Regulation XXIV. 1814, subject to a second or special appeal to the Zillah and City Judges as therein provided.—*Reg.* V. 1831, *Sect.* 16, *Cl.* 1.

In modification of these rules, whenever the number of appeals before the Judge is heavy, he may obtain permission from the Sudder Dewanny Adawlut to refer a specific number to the principal Sudder Ameens.

15. In modification of this provision, however, it is hereby enacted, that it shall not be competent to a Zillah or City Judge to refer any appeal for trial to a Sudder Ameen, even though he may have been specially empowered under the rule above cited, but whenever it may appear to any such Zillah or City Judge that his file is so heavy as to make it impracticable for him to dispose of all the appeals which may be pending with reasonable dispatch, he shall make a special report of the case to the Sudder Dewanny Adawlut, soliciting permission of that authority to refer such specified number of appeals from the decisions of Moonsiffs or Sudder Ameens, as he may deem necessary for trial, to the Principal Sudder Ameen attached to his Court,

to be appointed under the rules prescribed in Section 17, of this Regulation, in which case it shall be competent to the Court of Sudder Dewanny Adawlut to comply with the application for the transfer, and the rules prescribed in the preceding Clause shall be held applicable to such appeals. —*Reg.* V. 1831, *Sect.* 16, *Cl.* 2.

Rules regarding the conduct of appeals by the Judge.

16. Whenever an appeal shall be preferred to a Zillah or City Judge from the decision of any Moonsiff, Sudder Ameen, or Principal Sudder Ameen, it shall not be necessary to serve any process on the Respondent in the first instance, and if, after the perusal of the record of the original suit and the Petition of Appeal in the presence of the Appellant or his vakeel, the Judge shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same, and to communicate the order for confirmation through the Court from whose judgment the appeal was made to the Respondent, with a view to enable such Respondent to take immediate measures for the execution of the Decree.—*Reg.* V. 1831, *Sect.* 16, *Cl.* 3.

In suits decided by the Principal Sudder Ameen, a regular appeal to be to the Judge—a special appeal to the Sudder Dewanny Adawlut.

17. In all suits originally decided by the Principal Sudder Ameens, an appeal shall lie to the Zillah or City Judge, and a further or special appeal under the provisions of the Regulations applicable to such cases, to the Sudder Dewanny Adawlut.—*Reg.* V. 1831, *Sect.* 28, *Cl.* 2.

SECT. XI.

Special and Summary Appeals.

Special or summary appeals from the decisions of Principal Sudder Ameens how to be admitted;—review of judgment how to be applied for.

18. The provisions contained in Sections 2, and 3, Regulation XXVI. 1814, with any modifications of them which may have been since enacted, regarding the admission and hearing of special and summary appeals, as well as the rule contained in Clause Second, Section 4, of the aforesaid Regulation, relative to the review of judgments, shall be held applicable to original suits and appeals tried by Principal Sudder Ameens.—*Reg.* V. 1831, *Sect.* 19, *Cl.* 1.

Provisions in

19. In modification of the provisions contained in Section

modification of the rules in force regarding the mode of admitting special appeals.

24, Regulation XLIX. 1803, Section 10, Regulation II. 1805, and Clauses Second and Third, Section 9, Regulation VIII. 1805, it is hereby enacted, that from and after the 1st of February 1815, no special or second appeal shall be admitted by a Zillah or City Judge, by a Provincial Court, or by the Sudder Dewanny Adawlut, unless upon the face of the decree, or of documents exhibited with it (assuming all the facts of the case as stated in the decree,) the judgment shall appear to be inconsistent with some established judicial precedent, or with some Regulation in force, or with the Hindoo or Mahomedan law, in cases which are required to be decided by those laws, or with any other law or usage, which may be applicable to the case, or unless the judgment shall involve some point of general interest, or importance, not before decided by the superior Courts.—*Reg.* XXVI. 1814, *Sect.* 2, *Cl.* 1.

Special appeals allowed in cases where decrees passed by one or more courts are inconsistent with each other.

20. The restrictive provisions for second, or special appeals, prescribed in the First Clause of Section 2, Regulation XXVI. 1814, allow of such appeals being admitted, when the judgment against which the appeal may be preferred, shall appear to be inconsistent with some established judicial precedent; but this is not understood to include the case of two opposite or inconsistent judgments passed by the same Court, or by two Courts having jurisdictions in the same suit, or in suits founded on a similar cause of action; though in such cases it is obvious, that one or both of the opposing judgments should be revised. It is therefore hereby provided, in addition to the grounds on which second or special appeals are declared admissible, in the First Clause of Section 2, Regulation XXVI. 1814, that such appeals may be admitted, when the judgment against which the appeal is preferred shall from the exhibition of another decree of the same Court, or of another Court having jurisdiction in the same suit, or in a suit founded on a similar cause of action, clearly appear to be in opposition thereto, or inconsistent with such other judgment.—*Reg.* XIX. 1817, *Sect.* 7, *Cl.* 1.

Party to present

21. When a party upon any of the grounds specified in

a petition to the Court competent to admit such special appeal.

the preceding clause (Par. 19,) may be dissatisfied with a judgment passed on a regular appeal, by a competent Civil Court, and may in consequence be desirous of obtaining a further investigation of the suit by a second or special appeal, he shall, within the limited period prescribed for the admission of regular appeals, present a petition to the Court, which, under the provisions of Regulations XXIV. and XXV. 1814, may be competent to admit a special appeal in the case.—*Reg.* XXVI. 1814, *Sect.* 2, *Cl.* 2.

Such petition to be written on stampt paper of what description, and what it is to contain.

22. Such petition shall be written upon the stampt paper prescribed in Section 13, Regulation I. 1814, with reference to the value or amount of the suit, calculated according to the provisions of Section 14, of that Regulation, or any provisions which may be hereafter enacted for the valuation of property sued for in the Civil Courts; the petition shall state distinctly the specific ground or grounds under Clause First of this Section, on which the special appeal is solicited, and shall be presented either by the party in person, or by an authorized pleader of the Court. In the latter case, the petition shall be signed by the pleader, who shall certify on the back of the petition that he has duly considered the grounds stated for admitting a special appeal under Clause First of this Section, and believes them to be well founded and sufficient.—*Reg.* XXVI. 1814, *Sect.* 2, *Cl.* 3.

Mode of proceeding when a special appeal may be admitted.

23. If on a consideration of the circumstances of the case, the Court shall see reason for admitting a special appeal on any of the grounds stated in the First Clause of this Section, the appellant shall be required to furnish the prescribed security and to deposit the amount of the fees payable to his pleader under the rules in force, within a reasonable period to be fixed by the Court; when the required security and deposit shall have been duly furnished, the Court will admit the special appeal, and proceed to investigate the suit under the same rules as are prescribed for the trial and determination of regular appeals.—*Reg.* XXVI. 1814, *Sect.* 2 *Cl.* 4.

Courts authorized to refund a portion of the stamp duty in certain cases when the petition for a special appeal may be rejected.

24. If the Court shall not see sufficient reason for admitting the special appeal, and shall in consequence reject the petition, the appellant shall not be entitled to receive back the amount or value of the stamp on which the petition may have been written under Clause Third; the Courts are however vested with a discretionary authority in any particular instance of hardship to refund any portion not exceeding three-fourths of the amount of such stamp duty to the party who may have paid the same, or to his legal representative.—*Reg.* XXVI. 1814, *Sect.* 2, *Cl.* 5.

All orders passed by competent Courts regarding special appeals to be final.

25. It is hereby declared, that the order of a Zillah or City Judge, or of a Provincial Court, refusing to admit a special or second appeal under the powers vested in them, by this Regulation, as well as the judgments which they respectively pass on special appeals admitted by them, shall in all cases be final, and shall not be liable to any further revision by a superior Court.—*Reg.* XXVI. 1814, *Sect.* 2, *Cl.* 6.

Pleaders entitled to certain fees on the rejection of special appeals.

26. When an application for a special appeal presented through an authorized pleader to a Zillah or City Court, a Provincial Court, or to the Sudder Dewanny Adawlut, may be rejected by the Court, such pleader shall be entitled to receive from the party employing him any remuneration for his trouble, which the Court may think proper to adjudge; provided, that such remuneration shall in no case exceed one-fourth of the amount of the fee, to which the pleader would have been entitled, had the special appeal been admitted and determined by the Court; nothing in this Section shall be understood to affect any special appeals, which may have been already admitted, and which may be admitted, previously to the 1st February 1815, by the Zillah or City Judges, the Provincial Courts, or the Sudder Dewanny Adawlut.—*Reg.* XXVI. 1814, *Sect.* 2, *Cl.* 7.

Provisions rescinded.

27. Sections 8, and 9, Regulation II. 1801, Section 12, Regulation IV. 1803, Section 26, Regulation XLIX. 1803, and Section 11, Regulation II. 1805, are hereby rescinded, and the following provisions are enacted in their stead.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 1.

Cases in which the Sudder Dewanny Adawlut may admit a summary appeal.

28. It shall be competent to the Sudder Dewanny Adawlut to receive a summary appeal from the orders or decrees of the Provincial Courts in all cases, in which the latter may have refused to admit an original suit or appeal, regularly cognizable by them; or having admitted such suit, or appeal, may have dismissed it on the ground of delay, informality, or other default, without an investigation of the merits of the case.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 2.

Cases in which the Provincial Courts may admit a summary appeal.

29. In like manner it shall be competent to a Provincial Court to receive a summary appeal from the orders or decrees of the Zillah or City Courts, in cases, in which the latter may have refused to admit an original suit or appeal, regularly cognizable by them, or having admitted such suit or appeal, may have dismissed it, without an investigation of the merits on the ground of delay, informality, or other default.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 3.

Cases in which the Zillah or City Judges may admit a summary appeal.

30. On the same principle it shall be competent to the Zillah or City Judges to receive a summary appeal from the orders or decrees of a Register, or Sudder Ameen, in cases, in which the Register or Sudder Ameen may have dismissed on the ground of some default, and without an investigation of the merits of the case, any original suit or appeal regularly referred to them.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 4.

Limitation of time for the admission of summary appeals.

31. In all the preceding cases, the summary appeal shall be preferred within the same limited period as is prescribed for the admissions contained in the following Clauses.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 5.

The petition for a summary appeal to be written on what stampt paper.

32. Whenever a party may be desirous of preferring a summary appeal in the cases above-mentioned, he shall appear either in person, or by a vakeel duly authorized, before the Court, which, under the preceding rules may be competent to receive such appeal; and shall present a petition, written on the stampt paper, prescribed by Section 18, Regulation I. 1814, and accompanied by an attested copy of the order or decree passed in the case.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 6.

Party not liable to pay the institution fee nor to furnish the usual deposit or security.

33. The party presenting such petition, shall not be liable to the payment of the stamp duty, substituted for the institution fee, by Section 13, Regulation I. 1814, nor shall he be required to furnish the deposit for the fee of his vakeel, or any security, except such as may be eventually necessary under the Regulations in force, for staying the execution of the decree from which the appeal may be preferred.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 7.

Mode of proceeding in summary appeals.

34. It shall not be requisite to give any notice to the respondent, or to require his attendance on such summary appeal being preferred, unless in any particular instance the Court may deem it proper to adopt that measure; nor shall any pleadings or proceedings be holden on such summary appeal excepting such as may suffice to determine whether the suit was or was not rejected or dismissed by the lower Court on sufficient grounds, and in conformity with the Regulations.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 8.

In what cases the lower Courts may be directed to receive or to revive the suit.

35. If upon such summary proceedings, it shall appear to the Court, that the suit was rejected in the first instance, or after being admitted, was dismissed without an investigation of the merits, upon insufficient grounds; or in opposition to the Regulations, it shall be competent to the Sudder Dewanny Adawlut, to the Provincial Courts, and to the Zillah or City Judges respectively, to direct the lower Court or officer, from whose order or decree the petition of appeal may have been presented, to receive the original suit or appeal, or to revive it, if it shall have been received and dismissed, and to try and determine such cause on its merits, according to the Regulations.—*Reg.* XXVI. 1814, *Sect* 3, *Cl.* 9.

In what cases the Courts may reject the summary appeals, and fine the appellant.

36. If on the contrary such summary appeal shall be found to be groundless and litigious, the Sudder Dewanny Adawlut, the Provincial Courts, and the Zillah or City Judges, are respectively authorized and required to reject the petition for a summary appeal, and to impose such fine on the litigious appellant, as may appear to be in each instance proportionable to the condition of the party and to the cir-

cumstances of the case, provided that such fine shall in no case exceed the amount of the stampt duty which would have been payable by the appellant on the institution of such case, as a regular suit or appeal. All orders, imposing fines, or rejecting petitions of summary appeal which may be passed under the preceding clause by the Sudder Dewanny Adawlut, the Provincial Courts, or by the Zillah or City Judges, shall be final and conclusive.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 10.

The orders of the Court in such cases to be final.

37. When a pleader may be employed in such summary appeals, the Court is authorized to award to him such fee, as may be considered to be a sufficient compensation for his labour, provided that it shall in no case exceed one-fourth of the fee to which such vakeel would have been entitled if the suit had been instituted either as an original suit or as a regular appeal.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 11.

Provision for pleaders' fees in such cases.

SECT. XII.

Review of Judgment.

38. The Rule contained in Clause Second, Section 4, of Regulation XXVI. 1814, relative to the review of judgments shall be held applicable to original suits and appeals tried by Principal Sudder Ameens.—*Extract from Reg.* V. 1831, *Sect.* 19, *Cl.* 1.

39. Any persons considering themselves aggrieved by a decree passed in a regular civil suit or appeal, by a Zillah, City or Provincial Court, from which decree no further appeal may have been admitted by a superior Court, and who from the discovery of new matter or evidence which was not within their knowledge, or could not be adduced by them at the time when the decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against them, are at liberty to present a petition for this purpose to the Court, in which the decree in question may have been passed; such petition shall be written on stampt paper of the value prescribed in Section 18, Regulation I. 1814, and shall be presented

Provisions regarding the mode of applying for permission to review judgments from which no appeal shall have been preferred.

within the period of three calendar months, from the delivery or tender of the decree, which period shall be calculated according to the provisions of Clause Eleventh* of Section 8, of this Regulation, (Par. 40.) The Courts are nevertheless authorized to admit applications for a review after the period above-mentioned, provided that the parties preferring the same shall be able to shew just and reasonable cause to the satisfaction of the Court for not having preferred such applications within the limited period; in such case however the Courts are enjoined to proceed with caution, and to state at large upon the proceedings, their reasons for admitting such applications after the limited period. If the Courts shall be of opinion, that there are not any sufficient grounds for a review, they shall reject the petition, and their order to that effect, shall be final; but if on the contrary, they shall be of opinion, that the review desired is necessary to correct an evident error, or omission, or is otherwise requisite for the ends of justice, they shall report the same to the Sudder Dewanny Adawlut, transmitting at the same time a statement of the grounds of their opinion with a copy of the petition presented to them, and a copy of the decree passed in the case.—*Reg.* XXVI. 1814, *Sect.* 4, *Cl.* 2.

Limitation of time for the admission of appeals how to be calculated in such cases

40. The respective periods limited by the Regulations for the admission of appeals in such cases, shall be calculated from the date on which the decision may have been passed; excluding from the calculation of such periods, the interval which may have elapsed in each instance between the date on which the requisite stampt paper may have been furnished by the party to the Court, and that on which the copy of the decree may have been rendered or delivered to the party in open Court in the mode prescribed by the Regulations. The Courts will in all cases be enabled to ascertain such interval by the endorsements on the copy of the decree required to be made under Clause Ninth of this Section.—*Reg.* XXVI. 1814, *Sect.* 8, *Cl.* 10.

Rules regarding

41. If the Principal Sudder Ameen shall be of opinion

* This seems to be an error, Clause Tenth appears to be intended.

that the review applied for ought to be admitted, he shall report the case to the Zillah or City Judge, who is authorized to grant permission under the same rules as are prescribed by the existing Regulations in cases where similar applications may be made to the Court of Sudder Dewanny Adawlut.—*Reg.* V. 1831, *Sect.* 19, *Cl.* 2.

review of judgments by Principal Sudder Ameens.

42. The order of a Zillah or City Court, or of a Provincial Court, or of the Sudder Dewanny Adawlut, rejecting the petition for a review in the first instance, or of the latter Court refusing to sanction a review when applied for by a lower Court, shall not be construed to preclude the party from instituting a regular appeal, (if the case be appealable) in a competent Court, subject to the conditions and rules prescribed by the Regulations in force for the admission of such appeals.—*Reg.* XXVI. 1814, *Sect.* 4, *Cl.* 4.

The orders rejecting applications for a review not to bar the right of a party to prefer a regular appeal.

SECT. XIII.

Stampt Paper in the Principal Sudder Ameens' Courts.

43. The duties chargeable on Law papers in the Courts of the Principal Sudder Ameens shall be regulated according to the rates fixed in Schedule B, referred to in Section 17, Regulation X. 1829, for the Courts of the Zillah and City Judges.—*Reg.* V. 1831, *Sect.* 20.

Duties chargeable on law papers in the Sudder Ameens' Courts.

SECT. XIV.

Rules to be particularly observed by Principal Sudder Ameens.

44. In the trial of original suits and appeals, the Principal Sudder Ameens are enjoined to conform strictly to the mode of procedure directed to be observed by Section 10, Regulation XXVI. 1814, before any exhibits are filed or witnesses summoned in support of the allegations of either of the parties.—*Reg.* V. 1831, *Sect.* 21.

Rules in Section 10, Regulation XXVI. 1814, to be observed by Principal Sudder Ameens.

[The rules in Section 10, Regulation XXVI. 1814, will be found in CHAP. II. Par. 72, 74, 75 and 76.]

SECT. XV.

Execution of Decrees.

Decrees passed by the Principal Sudder Ameens, how to be executed.

45. Decrees passed in the Courts of the Principal Sudder Ameens shall be executed by those Courts under the general rules prescribed for the execution of decrees passed by the Zillah and City Judges (Vide CHAP. II. Sect. 24.)—Provided however, that in such cases an appeal from the orders of the Principal Sudder Ameens shall lie, in the first instance, to the Zillah and City Judges, and specially to the Sudder Dewanny Adawlut.—*Reg.* V. 1831, *Sect.* 22.

SECT. XVI.

Reports.

Reports to be furnished by the Principal Sudder Ameens.

46. The Principal Sudder Ameens shall furnish such monthly and other periodical reports of business done in their Courts, as the Sudder Dewanny Adawlut may be pleased to direct.—*Reg.* V. 1831, *Sect.* 23.

SECT. XVII.

Retention of Causes on their own Files by the Judges.

Judges retaining on their own files cases referrible to the Sudder Ameen or Principal Sudder Ameen, to record their reasons.

47. Whenever the Zillah and City Judges shall retain, on their own files, any original suits which they are authorized by this Regulation to refer to a Sudder Ameen, or Principal Sudder Ameen, they shall record their reasons for doing so upon their proceedings.—*Reg.* V. 1831, *Sect.* 24.

SECT. XVIII.

Ministerial Officers.

Sudder Ameens and Principal Sudder Ameens competent to appoint and remove their own officers.

48. The Sudder Ameens and Principal Sudder Ameens are authorized to appoint and remove the ministerial officers of their respective Courts, without reference to any other authority.—*Reg.* V. 1831, *Sect.* 25, *Cl.* 1.

Such officers liable for misconduct to the same penal-

49. The ministerial officers of the Courts of the Sudder Ameens and Principal Sudder Ameens shall be liable to the

same penalties for acts of corruption, extortion, or other misconduct, as the ministerial officers of the Zillah and City Courts are now liable under the general Regulations.—*Reg.* V. 1831, *Sect.* 25. *Cl.* 2.

ties as other officers of the Judge's Court.

50. The ministerial officers of the Civil and Criminal Courts, (under which designation are comprehended the Registers, and the assistants to the Registers, or any other subordinate officers being covenanted servants of the Company, and all native officers attached to the Courts, excepting the law officers,) are declared amenable to the Courts to which they may be respectively attached, for acts of corruption or extortion; and the Courts are empowered to receive any such charges that may be preferred against them. Previous however to receiving the charge, the Courts are to require the complainant to make oath to the truth of it, (or subscribe the required declaration, if he shall come within the description of persons whom the Courts are empowered to exempt from taking oaths) and give security in whatever sum they may judge proper to prosecute the charge without delay. Unless the complainant shall previously take the oath, or subscribe the above-mentioned declaration, and give required security, the Courts are not to receive the charge. —*Reg.* XIII. 1793, *Sect.* 9, *Cl.* 1.

Ministerial officers of the Courts amenable to their respective Courts for corruption and extortion.

Oath or declaration to be made, and security to be given by the complainant before the Court receive the charge.

Charge to be rejected, unless the complainant shall make the required oath or declaration, and give security.

51. The Sudder Dewanny Adawlut, is empowered to receive charges of corruption or extortion, not relating to any matter depending before them, or decided by them, that may be preferred to them against any ministerial officer of a Zillah or a City Court, and to order the Court to which the accused may be attached, by a precept under their seal, and attested by their Register, to receive the charge, provided the complainant shall prove to their satisfaction, that he preferred the charge in the first instance to such Zillah or City Court, and offered to make the required oath or declaration, and give the security prescribed in Clause First, and that the Court notwithstanding omitted or refused to receive the charge; and provided also that the complainant shall further prove to the satisfaction of the Court, that in consequence of such refusal, he preferred the charge to the

Cases in which the Sudder Dewanny Adawlut is empowered to receive charges of corruption or extortion against the ministerial officers of any Zillah or City Court.

How the Court is to proceed if the charge relate not to any matter depending before it, or which may have been decided by it.

Provincial Court of Appeal of the division, and offered to make the required oath or declaration, and give the security prescribed in Clause First, and that the Provincial Court nevertheless omitted or refused to receive the charge; and shall moreover make the required oath or declaration, and enter into the security prescribed in the above-mentioned clause. The Sudder Dewanny Adawlut, is likewise empowered to receive charges of corruption or extortion, which may be preferred against a ministerial officer of a Zillah or City Court, that may have been preferred in the first instance to the Provincial Court, in any appeal or matter depending before it, or which may have been decided by it, and to refer it to such Provincial Court, or to the Zillah or City Court, to which the accused may be attached, provided the complainant shall prove to the satisfaction of the Court, that he referred the charge to the Provincial Court, and offered to make the required oath or declaration, and give the security prescribed in Clause First, and shall moreover make the required oath or declaration, and enter into the security prescribed in the above mentioned clause. But if any person shall charge a ministerial officer of any Zillah or City Court, before the Sudder Dewanny Adawlut, with corruption or extortion in any suit or matter that may be depending before it, or which may have been decided by it, the Court may receive the charge, and refer it for trial to the Zillah or City Court to which the offender may be attached, without further enquiry, provided the complainant shall previously make the prescribed oath or declaration to the truth of the charge, and give the security required in Clause First.—*Reg.* XIII. 1793, *Sect.* 9, *Cl.* 3.

Court how to proceed, if the charge relate to any matter depending before it, or which may have been decided by it.

52. The Provincial Courts of Appeal are empowered to receive any charge of corruption, not relating to any suit or matter depending before them, or decided by them, that may be preferred to them against any of the ministerial officers of the Zillah and City Courts within their respective jurisdictions, and to refer the charge to the Court to which the accused may be attached, provided it be proved to their satisfaction, that the accuser preferred the charge in the first instance to such Zillah or City Court, and offered to make

Cases in which the Provincial Courts of Appeal, are empowered to receive charges of corruption or extortion against the ministerial officers of the Zillah and City Courts.

the oath or declaration, and give the security required in Clause First, and that the Court notwithstanding omitted or refused to receive the charge. But if any person shall charge a ministerial officer of any Zillah or City Court with corruption or extortion in any appeal or matter which may be depending, or have been decided, in the Provincial Court, such Court may receive the charge, and refer it to the Zillah or City Court to which the accused may be attached without further enquiry, provided the complainant shall previously make the prescribed oath or declaration, and give the security required in Clause First.—*Reg.* XIII. 1793, *Sect.* 9, *Cl.* 4.

Security for prosecuting the charge not to be demanded in the first instance.

But may be required, if necessary, at any time in the course of the inquiry.

This provision declared applicable to charges referred for inquiry under Regulation VIII. 1806.

And to charges of corruption and extortion against the native law officers of the Civil and Criminal Courts.

53. Security shall not be demanded, in the first instance for the prosecution of any charge received under this Regulation But in the event of its appearing necessary, at any time in the course of the inquiry, sufficient hazirzaminy security may be required from the accuser, to attend and prosecute the charge to a conclusion. This provision shall also be considered applicable to charges against the public officers of the Revenue and Commercial Departments referred for special inquiry under Regulation VIII. 1806; as well as to charges of corruption and extortion against the Hindoo and Mahomedan law officers, and the native ministerial officers, of the Civil and Criminal Courts, in qualification of the rules, contained in Regulations XII. and XIII. 1793, and Regulations XI. and XII. 1803, whereby security is required for the prosecution of a charge of corruption or extortion against any such officer, previously to the charge being received.—*Reg.* X. 1806, *Sect.* 10.

Judgment to be passed by the Courts, in the event of a charge of corruption or extortion being proved in whole or in part against any native ministerial officer.

54. If a native ministerial officer of any Civil or Criminal Court, who may be prosecuted for corruption or extortion under this Section, shall be proved to have received, or taken the whole, or any part of the money or property which he may be charged with having received or taken, the Court is to adjudge him to refund the amount, or value, of the money or property which he may be so proved to have so received or taken, and to pay a fine of three times the amount of it to Government. In enforcing the decision, the

Court is to observe the Rules prescribed for enforcing other decisions of the Court. If the officer against whom such decree may be passed, shall not appeal from it within the limited time, or, if an appeal shall not lie from the decision, the Court is to transmit a copy of the decree to the Governor General in Council. If an appeal shall lie from the decision, and such officer shall prefer an appeal, and the decision shall be confirmed in appeal, the Court by which the final decision may be passed, is to transmit a copy of it to the Governor General in Council, who reserves to himself the power of declaring such officer incapable of serving Government in any capacity. The Courts may suspend a native officer against whom a charge of corruption or extortion may be preferred, until the final decision may be passed, if they shall see cause for so doing.—*Reg.* XIII. 1793, *Sect.* 9. *Cl.* 8.

No fine to be awarded in the Civil Court, for the offence of corruption or extortion.

55. Whenever any native ministerial officer, of any Civil or Criminal Court, or any Hindoo or Mahomedan Law officer, against whom an action may have been brought in the Civil Court, to recover money or property, extorted or corruptly taken, shall be proved to have received or taken the whole, or any part of the money or property which he may be charged with having received or taken, the Court is to adjudge him to refund the amount of the money, or value of the property, which he may be proved to have so received or taken, with interest, when it may be a case of money taken, at such rate not exceeding twelve per cent. per annum, as to the Court may appear equitable, and to pay full costs to the plaintiff in the suit. The Court shall not, in such case, be competent to award any fine against the defendant.—*Reg.* III. 1827, *Sect.* 3.

Officers at liberty to prosecute persons preferring groundless charges against them under this Section.

56. If any person shall prefer a charge of corruption or extortion, against a ministerial officer of any Civil or Criminal Court of Judicature under this Section, and the charge shall not be proved, the accused is to have the option of suing the accuser for damages in any Court of Civil Judicature to which he may be amenable.—*Reg.* XIII. 1793, *Sect.* 9, *Cl.* 12.

In what Courts charges of corruption or extortion, preferred against any ministerial officer of a Court are to be tried.

57. Charges of corruption or extortion that may be preferred against the ministerial officers of any Civil or Criminal Court of Judicature under this Section, are to be considered as Civil actions, and accordingly, are to be prosecuted in the Civil Courts. Conformably to this rule, whenever the Sudder Dewanny Adawlut, or the Nizamut Adawlut, may receive any such charge against their own officers, or exercise the power vested in them by Clause Fifth, they are to direct the complainant to prosecute the charge in the Sudder Dewanny Adawlut; and whenever the Provincial Courts of Appeal, or the Courts of Circuit, may receive any such charge against any of their own ministerial officers, or the ministerial officers of any Zillah or City Court, or, in the event of any such charge being referred to them, they are to direct the complainant to prosecute the charge before the Provincial Court of Appeal: and whenever any Zillah or City Court may receive any such charge against their ministerial officers, or any such charge may be referred them by the Sudder Dewanny Adawlut, or the Provincial Court of Appeal, they are to direct the complainant to prosecute the charge in the Dewanny Adawlut.—*Reg.* XIII. 1793, *Sect.* 9, *Cl.* 7.

Criminal prosecution not to depend on the Civil action, or its result.

58. Any Law officer or ministerial native officer, charged with corruption or extortion, against whom there may appear to be sufficient grounds for a Criminal prosecution, shall be liable to such prosecution, as laid down in Clause Second, Section 6, Regulation XVIII. 1817, whether the Civil action provided for in Section 3, of this Regulation (Par. 55,) shall have been brought or not, and whatever, if brought, may have been its result.—*Reg.* III. 1827, *Sect.* 4.

In what case a law officer, or ministerial native officer may be prosecuted in the Criminal Courts on a charge of corruption, or embezzlement.

59. Whenever a law officer, or ministerial native officer, may not, by the result of a Civil action, have been subjected to the penalties for corruption or extortion, provided for in the above Regulations, and there may appear to be sufficient grounds for a Criminal prosecution against any such officer, on a charge of corruption, extortion, or embezzlement, he is hereby declared liable to a Criminal prosecution before the Zillah or City Magistrate, and Court of Circuit, as provided

And to what penalties liable on conviction.

for in other cases of misdemeanor by the Regulations, and on conviction before a Court of Circuit, or the Court of Nizamut Adawlut, he shall be subject to discretionary punishment to the extent, and under the provisions stated in Section 3, Regulation II. 1813, with respect to native officers convicted of making use of the public money entrusted to their care.—*Reg.* XVIII. 1817, *Sect.* 6, *Cl.* 2.

Record of Criminal conviction sufficient for compelling the refund of property corruptly taken or extorted.

60. From and after the date of this Regulation, it shall not be necessary for any party, from whom money or property may have been corruptly taken or extorted, to institute a Civil action for the recovery thereof; but on proof of the charge, in a Criminal prosecution, for those offences, a certified copy of the conviction by a Court of Circuit, or the Nizamut Adawlut, shall be received as sufficient authority for enforcing the refund of the amount or value so taken with interest, on application to that effect being preferred by the aggrieved party, to the Civil Court, on the stampt paper prescribed for miscellaneous petitions.—*Reg.* III. 1827, *Sect.* 5.

Amount of embezzlement to be paid, in the first instance, from the Public Treasury.

61. Whenever it may be established by the process described in Section 7, Regulation XVIII. 1817, that any native officer attached to a Civil or Criminal Court, may have embezzled any money or other property, duly paid into or deposited in the Court to which he is attached; or regularly received by him in his official capacity, in execution of a decree, or on account of a deposit, or on any other account whatever, it shall be the duty of the European controlling authority to refund to the party or parties, whose property may have been so embezzled, the amount or value of the embezzlement, from the Public Treasury, in the first instance, without reference to the solvency or otherwise of the defaulter or his surety; the Government reserving to itself the right of adopting such measures for the recovery of the money so refunded, as may be deemed expedient, with reference to the nature and circumstances of each case.—*Reg.* III. 1827, *Sect.* 6.

SECT. XIX.

Dismissal or Suspension of Principal Sudder Ameens.

62. [The Rules are given in CHAP. I. Sect. 11.]

SECT. XX.

Criminal Prosecution of Principal Sudder Ameens.

Principal Sudder Ameens liable to Criminal prosecution for corruption or extortion.

63. Principal Sudder Ameens shall be liable to a Criminal prosecution for corruption, extortion, or other misdemeanor committed by them in the discharge of any part of their duty, and on conviction before the Court of Circuit, shall be subject to fine and imprisonment proportionate to the nature and circumstances of the case, but no Principal Sudder Ameen shall be liable to be prosecuted for want of form; or for error in his proceedings or judgments, nor shall any process be issued against a Principal Sudder Ameen who may be charged with corruption, extortion, on any oppressive and unwarranted act of authority, unless the Zillah or City Judge shall be previously satisfied by sufficient evidence that there is reason to believe the charge to be well founded.—*Reg.* V. 1831, *Sect.* 26, *Cl.* 5.

CHAPTER IV.

Vakeels.

SECT. I.

Appointment of Vakeels.

Vakeels of the Zillah and City Courts to be nominated by the Judges of those Courts for the sanction of the Provincial Courts.

1. WHENEVER the appointment of a Vakeel may be requisite in any of the Zillah or City Courts, the Judge of such Zillah or City shall nominate for the approbation of the Provincial Court of the division, some person being a native of India and duly qualified for the situation; and shall communicate to the Provincial Court, such information as he may have obtained regarding the age, capacity, character, education, and past employment of the individual, whom he may recommend; and no person shall be authorized to practise as a Vakeel in any Zillah or City Courts without the previous sanction of the Provincial Court.—*Reg.* XXVII. 1814, *Sect.* 3, *Cl.* 2.

Pleaders to be either of the Hindoo or Mahomedan religion.

Preference to be given to candidates of a certain description.

2. In the nomination and appointment of persons to the office of Vakeel, the Judges of the Sudder Dewanny Adawlut, of the several Provincial Courts, and of the Zillah and City Courts, are restricted to individuals of the Hindoo and Mahomedan persuasion, and are required to give the preference to candidates who may have been educated in any of the Mahomedan or Hindoo Colleges established or supported by Government, provided that such candidates are in other respects duly qualified for the situation.—*Reg.* XXVII. 1814, *Sect.* 3, *Cl.* 3.

Office of Vakeels to be open to all natives of India.

3. So much of Clause 3, Section 3, Regulation XXVII. 1814, as restricts the Judges of the several Courts in the nomination and appointment of persons to the office of Vakeels to individuals of the Hindoo and Mahomedan persuasion, is hereby rescinded; and that office shall, in future, be

open to all natives of India, whatever may be their religious belief or persuasion.—*Reg.* V. 1831, *Sect.* 30.

A native student in any of the public institutions under this presidency who shall have received a certificate of qualification shall be admitted to practise as a Vakeel in any of the Zillah and City Courts on application.

4. In addition to the Rules contained in Section 3, Regulation XXVII. 1814, for the nomination and appointment of Vakeels in the several Zillah or City Courts, it is hereby enacted, that, after the promulgation of this Regulation, any native student who may have been educated, or have received instruction at one of the Public Institutions under this Presidency, and who shall have received a certificate of adequate proficiency in the Laws and Regulations, and of good character, from the Superintending Committee of any of the Public Colleges supported by Government, according to the Form C. (1) in the Appendix to this Regulation, shall, on making application to any of the Courts above-mentioned, be entitled to receive a sunnud of appointment to practise as a Vakeel in the Zillah or City Court to which the application may be made, unless the number of Vakeels already attached to such Court (including those allotted to the Courts of the Register and Sudder Ameens in pursuance of Section 16, Regulation XXVII. 1814,) shall render the immediate admission of any additional Vakeel, or Vakeels, highly inconvenient and objectionable, in which case the admission of the person so applying may be postponed by order of the Judge of the Court, so long as it shall appear necessary. Provided always, that every person previously to his being admitted to practise as a Vakeel, shall take and subscribe before the said Court, the oath, or solemn declaration in lieu thereof, required by Clause First, Section 5, Regulation XXVII. 1814, (Par. 7,) and shall be held liable for misconduct to be deprived of the Sunnud granted to him by the Court, and to all the penalties to which the Vakeels of the Courts of Justice are declared subject, by the Regulations which have been or may be enacted.—*Reg.* XI. 1826, *Sect.* 6.

Unless strong objections exist to his admission.

Proviso.

(1) *Certificate of a Student in any of the Colleges established or supported by Government, who may be declared qualified to be admitted as a Vakeel in any of the Zillah or City Courts.*

(Seal of the College.)

We hereby certify that at an examination of the students

in the (Hindoo or Mahomedan) College at ————————— held on the ————————, A. B. was found qualified, by his proficiency in the Hindoo (or Mahomedan) law, and in the Regulations of the British Government, to discharge the duties of pleader in any of the Zillah or City Courts.

We further certify that the said A. B. is reported by the Officers of the College to be of good character, and to have conducted himself with propriety during the time he has been attached to the College.

(To be signed by the Examiners.)

This certificate has been granted to the said A. B. under the seal of the College, this ———— day of ———— in the year ———————— corresponding with (the Mahomedan or Hindoo date.)

C. D.

Secretary to the College.

Pleaders to receive a sunnud from the Courts to which they may be appointed.

5. Persons who may hereafter be appointed to the office of Vakeel in the Zillah and City Courts, the Provincial Courts, or the Sudder Dewanny Adawlut, shall receive a sunnud of appointment duly authenticated by the Court, to which they may be respectively attached. This sunnud, (1) which is not required to be written on stampt paper, shall be drawn up according to the Form No. 1, in the Appendix to this Regulation.—*Reg.* XXVII. 1814, *Sect.* 4, *Cl.* 1.

The sunnud to be of a prescribed form.

(1) *Sunnud to be granted to Vakeels.*

In conformity with the provisions of Regulation XXVII. 1814, you A. B. are hereby appointed to the office of pleader in the Sudder Dewanny Adawlut, or in the Provincial Court, for the division of , or in the Zillah or City Court of You will not be liable to be removed from your situation so long as you may conduct yourself with propriety, and discharge your duty with zeal and integrity under the rules contained in the Regulations which now are, or may hereafter be in force.—*App. to Reg.* XXVII. 1814. *No.* 1.

And to be cancelled on the death, removal, or resig-

6. Whenever a Vakeel may be dismissed from his office, or may die, or may resign his situation, his sunnud of ap-

nation of the pleaders.

pointment shall be recalled and cancelled by the Court, to which such Vakeel may have been attached.—*Reg.* XXVII. 1814, *Sect.* 4, *Cl.* 2.

Pleaders to take an oath according to the prescribed form;

or a solemn declaration in lieu thereof;

7. Every Vakeel, previously to being allowed to practise, shall take and subscribe before the Court, to which he may be appointed, an oath, (1) drawn up according to the Form No. 2, of the Appendix to this Regulation, or a solemn declaration in lieu thereof, under the provisions now in force, or any other provisions which may be hereafter enacted.—*Reg.* XXVII. 1814, *Sect.* 5, *Cl.* 1.

(1) *Oath to be administered to Vakeels.*

I, A. B. solemnly swear, that I will truly and faithfully execute the duties of pleader of the Sudder Dewanny Adawlut, or the Provincial Court, for the division of , or the Adawlut of the Zillah or City of to the best of my knowledge and judgment.—*App. to Reg.* XXVII. 1814. *No.* 2.

[For a modification of this oath, vide CHAP. III. Par. 5, 6, 7.]

but not the half yearly retrospective oath formerly prescribed for Mahomedan pleaders.

8. The Mahomedan pleaders attached to the several Courts of Civil Justice shall no longer be required to take the half yearly retrospective oath heretofore prescribed by the Regulations.—*Reg.* XXVII. 1814, *Sect.* 5, *Cl.* 2.

Vakeels not allowed to plead in other Courts than in those to which they may be attached.

Exceptions.

9. The Vakeels attached to one Court, are not to be allowed to plead in any other Court; but this rule is not intended to preclude the Zillah and City Judges from making such an allotment and distribution of the pleaders attached to their Courts, as may from time to time appear convenient on a consideration of the Civil business in their own Courts, and in those of their Registers and of the Sudder Ameens. The Judges of the Sudder Dewanny Adawlut and Provincial Courts will also of course be at liberty to make any distribution of the Vakeels attached to their respective Courts, which may be found convenient for the dispatch of business in sittings which may be held before the separate Judges of those Courts.—*Reg.* XXVII. 1814, *Sect.* 16.

SECT. II.

Misconduct and Dismissal of Vakeels.

Pleaders liable to be dismissed for certain acts of misconduct.

10. Pleaders, employed in the several Courts of Civil Judicature, shall be liable to dismission from their office whenever they may be guilty of encouraging or promoting litigious suits; of wilfully delaying the suits of their clients for their own advantage; of refusing or omitting, without sufficient cause to be shown to the Court, to carry on the suits of their clients, after having accepted a vakalutnamah; of demanding or accepting from their clients any fee, or sum of money, goods, effects, or other valuable consideration beyond the fees, which they are or may be authorized to receive under the Regulations; or of fraudulent practices, neglect, or other misconduct, in the discharge of their professional duty; or of gross profligacy or misbehaviour in their private conduct.—*Reg.* XXVII. 1814, *Sect.* 6.

Agreements to receive less than the authorized fees declared to be illegal, and Vakeels liable to dismission when parties to such agreements.

11. All agreements, which may be entered into between pleaders and their constituents, for paying or receiving less than the established fees, are to be considered null and void; the whole of the Vakeel's fees, which may be payable by the party in such cases, shall be forfeited to Government; and the pleader who may be convicted of having been a party in such illicit agreement, shall be liable to immediate dismission from his office.—*Reg.* XXVII. 1814, *Sect.* 7.

Pleaders accepting vakalutnamahs in fictitious names liable to be dismissed.

12. The Vakeels are required to use due precautions to ascertain the real names and the identity of persons, who may propose to employ them as pleaders; and any authorized Vakeel, who shall hereafter receive and file a vakalutnamah from any person under a fictitious name, shall be liable to be dismissed from his office; provided however, that the Judge upon full enquiry into the circumstances of the case, and the Provincial Court, on consideration of the Judge's report, shall deem him to be deserving of such punishment. —*Reg.* XXVII. 1814, *Sect.* 8.

Pleaders liable

13. Any pleader, who under the preceding rules, may

to penalties for wilfully furnishing a dishonest opinion.

knowingly furnish an opinion of a nature evidently calculated to promote the institution of unfounded or litigious suits, or to discourage the amicable adjustment of dubious claims, shall be liable to be dismissed from his office, and if after furnishing such dishonest opinion he shall be employed as a pleader in the suit, his fees shall be liable to be forfeited by order of the Court, either to Government or to the party, whom he may have wilfully misled by such opinion.—*Reg.* XXVII. 1814, *Sect.* 20, *Cl.* 6.

Penalty for filing or recording papers not executed on paper bearing the prescribed stamp.

14. Any person or persons filing, or exhibiting, or recording, or causing, or procuring to be filed, exhibited or recorded for the purposes of proof, information, registry, or for any purpose or in any manner whatsoever, in any Court of Justice or in the office of any Collector, Register, or other Public Officer any deed, instrument, petition, pleading, or other writing of the description required to be written on stampt paper, which may not be written on the prescribed stampt paper, whether the said person or persons be himself the party interested in the case or matter on account of which such deed, instrument, petition, pleading, or writing may be filed, exhibited or recorded, or be the Vakeel or Mokhtar of such party, or be a ministerial officer of such Court or office, save and except the cases provided for in Section 8, of this Regulation, (Par. 8,) shall besides dismission from office (if the offender be an officer of Government or authorized Vakeel of Court,) forfeit to Government a sum equal to twenty times the value of the stampt paper, on which such deed, instrument, petition, pleading or writing ought to have been written.—*Reg.* XVI. 1824, *Sect.* 7, *Cl.* 1.

Penalty for vakeels and others preparing papers without the prescribed stamps.

15. Any Vakeel or authorized pleader attached to any Court of Judicature, any Cazee, or Public Officer whatsoever, who may draw up any deed, instrument, or other writing required to be written on stampt paper, on paper or other material not bearing the prescribed stamp, or who may attest, register, or record any deed, instrument or writing, which may not be written on the prescribed stampt paper, or who may prepare for the purpose of being authenticated, a copy of any deed, instrument, or writing on paper

or other material not bearing a stamp of the same value, as is prescribed for the original of such deed, instrument, or writing, shall besides dismission from office, forfeit to Government a sum equal to twenty times the value of the stampt paper on which such deed, instrument or writing ought to have been written.—*Reg.* XVI. 1824, *Sect.* 7, *Cl.* 2.

No exception on account of over value.

16. No exception shall be taken to any deed, instrument, or other writing on the ground that the stamp which may have been used is not of a proper denomination, or rate of duty, provided the stamp or stamps used equal or exceed in value the stamp or stamps which under the provisions of this Regulation ought to have been used.—*Reg.* XVI. 1824, *Sect.* 8.

Misconduct or disqualifications of pleaders attached to the Zillah and City Courts to be reported by the Judges of those Courts to the Provincial Courts.

17. Whenever a Zillah or City Judge shall be of opinion that a Vakeel, attached to his Court, or to that of a Register, or any of the Sudder Ameens, is unfit for the situation, in consequence of his having been guilty of any of the acts mentioned in the preceding Sections, (Par. 10, 11, 12,) or that he is otherwise disqualified for the office of pleader, the Judge shall report the circumstances of the case, together with his own opinion upon it to the Provincial Court, who will pass such orders on the case as may appear to be proper, or will call for any additional information, or direct any further enquiry that the nature and circumstances of each case may appear to demand.—*Reg.* XXVII. 1814, *Sect.* 10, *Cl.* 2.

Who will pass such order thereon as may be proper.

SECT. III.

Penalties for Minor Offences.

In what cases the pleaders are liable to be prosecuted in the Civil Court by their clients.

18. The parties in a cause are authorized to prosecute their respective pleaders in the Civil Courts of Judicature for any damages or injury, which they may have sustained from any breach of the Regulations on the part of their pleaders, or from any fraudulent conduct or malpractices committed by their pleaders regarding the suit.—*Reg.* XXVII. 1814, *Sect.* 12, *Cl.* 1.

Penalties for pleaders absenting themselves from Court without notifying the cause of their absence

19. If a pleader shall fail to attend in Court on any day fixed for the transaction of civil business, and shall omit to notify in writing to the Court his inability to attend, in consequence of indisposition or other sufficient cause, the Court is authorized to impose on such pleader, a fine, for the first offence, not exceeding the sum of fifty Sicca Rupees, and for the second offence, not exceeding one hundred Sicca Rupees. If such pleader shall be guilty of a similar offence a third time, he shall be liable to dismission from his office.—*Reg.* XXVII. 1814, *Sect.* 14, *Cl.* 1.

Pleaders may be fined 100 Rs. for disrespect to the Court.

20. If any pleader shall be guilty of disrespect to the Court, in open Court, the Court is empowered to impose a fine upon him, not exceeding the sum of one hundred Rupees.—*Reg.* XXVII. 1814, *Sect.* 14, *Cl.* 2.

Fines imposed on pleaders by the Sudder Ameens to be reported to the Zillah or City Judge.

21. Whenever a Sudder Ameen may find it necessary to impose any fine on a pleader attached to his Court, he shall report the circumstances of the case to the Judge, who will either confirm and enforce, or modify or remit the fine as may appear to him reasonable and proper.—*Reg.* XXVII. 1814, *Sect.* 15, *Cl.* 1.

The orders of Zillah and City Judges and Registers imposing fines on pleaders to be conclusive.

22. All orders imposing fines on pleaders, which may be passed by the Judges or Registers of the Zillah and City Courts, in confirmity with this Regulation shall be final; and the amount of the fines shall be levied either by a deduction from the fees, which may become due to the offender, or by the process, which is prescribed for the execution of decrees.

Proviso.

Provided however, that if a Zillah or City Judge shall in any particular instance, see reason to believe, that a fine has been imposed by a Register on insufficient grounds, or that the amount of any such fine is disproportionate to the offence, it shall be competent to the Zillah or City Judge to remit or modify the fine at his discretion, and the order of the Zillah or City Judge, in such cases, shall be conclusive.—*Reg.* XXVII. 1814, *Sect.* 15, *Cl* 2.

Pleaders to be censured and eventually dismissed for

23. The Courts will carefully point out to the notice of the Vakeels such parts of the pleadings as are evidently irre-

gular, irrelevant, or otherwise objectionable, and shall record their censure of any Vakeel, whose conduct in opposition to the preceding rules, may in any particular instance, demand such animadversion. If notwithstanding such recorded censure, a Vakeel shall again be guilty of similar misconduct, he shall be liable to forfeit in each instance the amount of the fee to which he may be entitled in the suit, or to such other fine to Government not exceeding twenty Rupees as the Court may deem it proper to impose.—*Reg.* XXVII. 1814, *Sect.* 9. *Cl.* 3.

breach of the preceding rules.

24. If a party or Vakeel or other person shall hereafter file in a Zillah or City Court, in the Provincial Court or in the Sudder Dewanny Adawlut any plaint, or pleading, required to be written on stampt paper, which may not have been prepared in conformity with the foregoing provisions of this Section, the Court is authorized, to impose on such party, Vakeel, or other person, any fine which they may deem proper, provided that such fine shall in no instance exceed three times the amount or value of the additional stampt paper, which would have been required had the plaint or pleading been drawn up in conformity with the foregoing provisions.—*Reg.* XXVI. 1814, *Sect.* 5, *Cl.* 4.

Fine to be imposed on a breach of the preceding rules.

25. The Zillah and City Judges are empowered without the previous sanction of the Provincial Court to suspend from his office any pleader attached to their Courts, who may be guilty of any gross act of fraud or misconduct, but in such instances it shall be the duty of the Judge to report the circumstances of the case, with as little delay as possible, for the information and orders of the Provincial Court.—*Reg.* XXVII. 1814, *Sect.* 11.

Pleaders attached to Zillah and City Courts may be suspended from office without the previous sanction of the Provincial Court.

Such cases to be immediately reported for the information and orders of the Provincial Court

SECT. IV.

Duties of Vakeels.

26. The Vakeels are hereby enjoined not to file any plaint, answer, or other pleading without previously ascertaining that such pleading has been duly prepared in conformity with the Regulations; that it contains no unnecessary repe-

Vakeels required to examine and sign the pleadings before they are filed

titions of former pleadings, no terms of personal abuse or reproach against the opposite party, his vakeels, witnesses, or other persons; and no groundless imputations on any Court of justice or public officer; but that it contains such matter only as is apparently material and relevant to the suit. Every pleading filed by an authorized Vakeel, shall be signed by him in testimony of his having considered and approved its contents.—*Reg.* XXVII. 1814, *Sect.* 9, *Cl.* 1.

Pleaders to examine exhibits previously to their being filed on the part of their clients.

27. In order that the expense, trouble, and inconvenience frequently experienced by filing irrelevant exhibits, and by summoning useless witnesses, may be avoided, the Vakeels are hereby further required to examine the documents, which their constituents may propose to exhibit in proof of their claims, previously to their being filed in Court; and to ascertain from their constituents, previously to summoning any witnesses, the specific points which such witnesses are expected to prove by their testimony.—*Reg.* XXVII. 1814, *Sect.* 9, *Cl.* 2.

And not to summon witnesses without previously ascertaining to what points their testimony is required.

Vakeels prohibited from being employed as agents or mokhtars in the Foujdaree Courts of the Zillahs and Cities.

28. The authorized pleaders of the Zillah and City Courts are hereby prohibited without obtaining the previous sanction of the Judges of those Courts from officiating as agents or mokhtars in any prosecution, trial or proceeding before the Magistrates or their assistants. This prohibition however is not intended to apply to the cases of pleaders, who may be employed on the part of Government in conducting the prosecution of persons charged with criminal offences, or in the execution of any other duties in the criminal department, which such pleaders may be directed or authorized to perform on the part of Government under the regulations, which are now or may hereafter be in force.—*Reg.* XXVII. 1814, *Sect.* 17.

Pleaders may be employed as arbitrators.

29. The Courts of Civil Judicature are hereby empowered to permit any of the authorized Vakeels of their respective Courts to be arbitrators in depending suits, subject to the several rules and provisions in force for referring suits to arbitration.—*Reg.* XXVII. 1814, *Sect.* 19.

Pleaders to give written receipts for documents entrusted to them by their clients.

30. Pleaders are to give written receipts on unstampt paper for all accounts, writings, or documents, which may be delivered to them by their clients in the course of any suit, or process; if a pleader shall refuse to return such accounts, documents, or writings, the Court upon a petition being presented to them for that purpose by the owners of the papers so withheld, shall cause them to be restored.—*Reg.* XXVII. 1814, *Sect.* 36.

Such petition to be written on stampt paper of what description, and what it is to contain.

31. Such petition [of special appeal] shall be written upon the stampt paper prescribed in Section 13, Regulation I. 1814, with reference to the value or amount of the suit, calculated according to the provisions of Section 14, of that Regulation, or any provisions which may be hereafter enacted for the valuation of property sued for in the Civil Courts; the petition shall state distinctly the specific ground or grounds under Clause First of this Section, on which the special appeal is solicited, and shall be presented either by the party in person, or by an authorized pleader of the Court. In the latter case, the petition shall be signed by the pleader, who shall certify on the back of the petition, that he has duly considered the grounds stated for admitting a special appeal under Clause First of this Section, (CHAP. III. Par. 19,) and believes them to be well-founded and sufficient.—*Reg.* XXVI. 1814, *Sect.* 2, *Cl.* 3.

The Regulations are to be exposed for the public inspection, and the pleaders are required to make extracts from them.

32. That the pleaders in the several Courts as well as all other persons may have it in their power to render themselves acquainted with the Regulations enacted by the British Government, there shall be kept for public inspection, in the several Courts of Judicature, printed copies of all such regulations and of the translations in the native languages, bound up with the annual indexes. Until the Regulations, which may be passed in each year are so bound up, the separate copies of each Regulation, with the translations, which may be printed and circulated to the Courts, are to be exposed as above directed. The Regulations are to be deposited upon a Table expressly allotted for that purpose in some part of the Court-room, and to lie for public inspection every day, Sunday excepted, during the ordinary

hours of business, when the pleaders of the Courts and all other persons are to be at liberty to refer to the Regulations, or to take copies or extracts from them in the Court-room: on receipt of the translations of the Regulations in the country languages, the several Courts of Civil Justice shall cause the same to be publicly read in their cutcherries, and shall require the native pleaders of their respective Courts to take copies of any of those translations, which relate directly or indirectly to the administration of Civil justice.—*Reg.* XXVII. 1814, *Sect.* 40.

33. The following Rule, contained in Section 31, Regulation VIII. 1805, for the Ceded and Conquered Provinces, is hereby extended to the remainder of the Company's territories under this Presidency:—*Reg.* XI. 1806, *Sect.* 12, *Cl.* 1.

Rules to be observed by the Judges and Magistrates, for the purpose of promulgating the Regulations.

34. On receipt of translations of the Regulations in the country languages, the Zillah and City Judges and Magistrates shall cause the same to be publicly read in their cutcherries; and shall require the native pleaders of their respective Courts to take copies of the translations of any Regulations which relate, directly or indirectly, to the administration of Civil justice. The Judges shall also cause the copies, which, by Section 10, Regulation XXXIX. 1793, (extended to Benares by Regulation XLIX. 1795,) they are required to furnish to the cauzees stationed in the several towns and purgunnahs within their respective jurisdictions, to be read and published, for general information, at the cutcherries of the native commissioners, empowered to act as Moonsiffs, and of the police darogahs, or tehseeldars in charge of the police.—*Reg.* XI. 1806, *Sect.* 12, *Cl.* 2.

Pleaders of the Courts exempted from attending the trial of summary suits when conducted at a distance from the fixed station of the Judge or Register.

35. The established pleaders of the Zillah and City Courts shall not be required to attend the trial of summary suits at a distance from the fixed station of the Judge or Register.—Such suits shall be tried in the presence of the parties, or any persons whom they may duly appoint to be present at the trial on their behalf.—*Reg.* II. 1821, *Sect.* 10, *Cl.* 3.

SECT. V.

Engagements of Vakeels.

Individuals not prohibited from pleading their own suits.

36. No part of this Regulation is to be construed to prohibit or to prevent any individual from appearing and pleading his own cause in person, in any of the Courts of Civil Judicature, without employing an authorized pleader.—*Reg.* XXVII. 1814, *Sect.* 38.

Retaining fee abolished.

Rules for the execution of a vakalutnamah.

37. When a party in a cause may be desirous of retaining a Vakeel for the prosecution or defence of any Civil suit, he shall not be required to pay to such Vakeel the retaining fee of four annas, heretofore prescribed, but he shall execute to him a Vakalutnamah, constituting him pleader in the cause and authorizing him to prosecute or defend the suit, and further binding himself to abide by and to conform all acts which such pleader may do or undertake in his behalf in the cause, in the same manner as if such party had been personally present and consenting; the party is to attest the instrument with his seal or signature, or with his mark if he cannot write, in the presence of two credible witnesses who are likewise to attest it in the same manner; and who are to attend the Court and prove the Vakalutnamah in all cases in which it may be judged requisite.—*Reg.* XXVII. 1814, *Sect.* 21. *Cl.* 1.

Vakalutnamahs to be written on stampt paper but not liable to the exhibit fee.

38. Such Vakalutnamahs are to be written on the stampt paper prescribed in Section 18, Regulation I. 1814, but shall not be liable to the stamp duty on exhibits under Section 15, of that Regulation.—*Reg.* XXVII. 1814, *Sect.* 21, *Cl.* 2.

[For the rate of stamps now in use, vide the Appendix.]

Pleaders after accepting a vakalutnamah are prohibited from being employed in the same cause against the party who may have so retained them.

39. When a Vakeel to whom a Vakalutnamah may have been executed under the preceding Section, shall consent to undertake the prosecution or defence of the suit, he shall affix his signature to the back of the Vakalutnamah, together with the date on which such signature may be affixed; and shall thenceforward be precluded from being employed

in the same cause against the party who may have so retained him.—*Reg.* XXVII. 1814, *Sect.* 22.

Rules where two or more pleaders may be employed by the same party.

40. The parties in a suit are respectively permitted to entertain two or more pleaders, who shall either divide the authorized fee between them, in an equal or in any other proportion, which may have been previously agreed upon between them and their constituent; or shall each be entitled to receive the full established fee, as may be specified in the Vakalutnamah; but all stipulations to this effect shall be distinctly stated in the Vakalutnamah, which shall otherwise be construed to entitle the whole of the Vakeels appointed by it to an equal division of the established fee and no more.—*Reg.* XXVII. 1814, *Sect.* 30, *Cl.* 1.

In such cases one vakalutnamah only is requisite.

41. It shall be sufficient in such cases for the party employing two or more Vakeels in the same suit, to file a single Vakalutnamah, but the party shall be required to deposit in Court, the whole amount of the fees payable to his pleaders, under the rules contained in Section 23.—*Reg.* XXVII. 1814, *Sect.* 30, *Cl.* 2.

When two or more pleaders may be employed, the adverse party shall in no case pay more than the prescribed fee for one pleader.

42. If the party shall agree to pay to each of the Vakeels employed by him the full amount of the authorized fee, the opposite party in the suit shall in no case be required to make good more than the fee of one of those pleaders, or such part of that fee as may be adjudged against him by the Court. The fees of the other pleader are to be considered as a separate expense to be defrayed exclusively by the party entertaining him, and for which he is not to be reimbursed in any case whatever.—*Reg.* XXVII. 1814, *Sect.* 30, *Cl.* 3.

SECT. VI.

Change of Vakeels.

Parties may withdraw the management of a depending suit from their pleaders, and may appoint new

43. Any party in a suit, who may be dissatisfied with the conduct of his pleader, shall be at liberty at any stage of the trial previously to the decision, to withdraw the power delegated to his pleader and to appoint another Vakeel to plead

the cause. In such cases the party is to present a petition to the Court, notifying that he has withdrawn the management of the suit from such pleader, and is to file a new Vakalutnamah in the name of the pleader, whom he may appoint to carry on the suit; all acts however which may have been done by the first pleader on the part of his client, previously to his having been dismissed, are to be held valid; on the conclusion of the suit, the Court will exercise its discretion in awarding to the pleader first employed, any portion of the authorized fee to which he may appear justly entitled on a consideration of the trouble which he may have undergone, and the other circumstances of the case.—*Reg.* XXVII. 1814, *Sect.* 12, *Cl.* 2.

pleaders in their room.

The Court may award to a pleader so removed any portion of the fee which may be proper.

44. If a pleader should be unable to attend the Court in consequence of indisposition, or other sufficient reason, he is to notify the same in writing to the Court on unstampt paper, and the hearing of any cause, in which such pleader may be employed, is to be postponed to a future day, unless the party or his authorized agent shall commit the management of the cause to any other pleader of the Court, or unless the party himself shall be present and willing to plead the cause in person. If the management of the cause shall be entrusted to any other pleader of the Court, instead of filing a new Vakalutnamah it shall be sufficient for the party or his mokhtar duly authorized, to endorse on the back of the original Vakalutnamah, a written declaration, that he has appointed some other Vakeel of the Court to conduct the cause, either permanently or during the absence of the pleader first appointed; on passing a decision in such cases, the Court shall direct the amount of the authorized fee to be divided between the two pleaders in such proportions as may furnish an equitable remuneration for the trouble, which they may have respectively undergone.—*Reg.* XXVII. 1814, *Sect.* 13.

Measures to be adopted when a pleader may be unable to attend the Court from indisposition or other sufficient cause.

45. Whenever a Vakeel attached to a Zillah or City Court may die, or may be removed from his office, or may voluntarily resign his situation, the Judge of such Zillah or City shall notify the same in a publication, to be affixed in his

Publication to be issued on the death, resignation or removal of a pleader in a Zillah or City Court.

What the publication is to contain.

own cutcherry, and in the cutcherries of the Register, Sudder Ameen, and the Collector of the district. The publication shall contain a statement of the several depending cases, in which such Vakeel may have been employed, and a requisition to the parties who have retained such Vakeel to attend in person, or to substitute another Vakeel in room of the pleader formerly appointed by them, within a reasonable period, to be fixed by the Court not being less than six weeks. In such instances, instead of filing a new Vakalutnamah, it shall be sufficient for the party or his mokhtar duly authorized to endorse on the back of the original Vakalutnamah a written declaration, that he has appointed some other Vakeel of the Court, in lieu of the pleader, who may have died or resigned his office, or have been removed from his situation—*Reg.* XXVII. 1814, *Sect.* 18, *Cl.* 1.

Such publication to be considered a good and sufficient notice.

46. A publication issued in conformity with the preceding rules shall be held and considered to be a good and sufficient notice, and if any party shall not attend or appoint another Vakeel, within the period limited in the publication, he shall be required to shew cause for the omission and if sufficient cause be not assigned, the Court shall proceed as in case of default in conformity with the provisions in force.—*Reg.* XXVII. 1814, *Sect* 18, *Cl.* 2.

Similar publication may be issued in other cases.

47. The Courts are authorized to apply the principle of the preceding rules to cases, in which the decision of suits may be materially delayed by the protracted indisposition of a pleader, or by his continued inability to attend the Court from any other cause which may be expected to be permanent, or of considerable duration.—*Reg.* XXVII. 1814, *Sect.* 18, *Cl.* 4.

Courts empowered to adjudge a reasonable portion of the fee to a pleader who may have been removed from the management of a cause without any fault on his part.

48. Whenever a pleader originally entertained by a party may have commenced the pleadings and prosecution, or defence of a suit, and from any cause, not originating in the misconduct of such pleader, another pleader shall be employed in his stead; it shall be competent to the Court, in which the suit is decided or terminated, to adjudge to the pleader so employed at the commencement of the suit (or

if he be dead, to his heirs or legal representative) such part of the established fee, as may appear to be an equitable remuneration for the trouble which he may have undergone. —*Reg.* XXVII. 1814, *Sect.* 18, *Cl.* 5.

SECT. VII.

Legal Opinions.

Pleaders may receive fees for legal opinions.

49. The authorized Vakeels of the Sudder Dewanny Adawlut, of the Provincial Courts, and of the Zillah and City Courts, are hereby empowered to receive fees for legal opinions under the provisions contained in the following clauses of this Section.—*Reg.* XXVII. 1814, *Sect.* 20, *Cl.* 1.

A written statement of the case to be submitted to the pleader.

50. Any person, who may be desirous of obtaining the opinion of an authorized pleader regarding the legal validity and sufficiency of any claim, right or title, which he may suppose himself to possess, and on the consequent expediency of prosecuting or defending either originally or in appeal such supposed claim, right or title in the Courts of Civil Judicature, may submit a written statement of his claim under his seal, signature, or mark to the pleader whose opinion he may wish to obtain.—*Reg.* XXVII. 1814, *Sect.* 20, *Cl.* 2.

The pleader to give a written declaration of his opinion.

51. The pleader, to whom such statement may be submitted, after an attentive consideration of the laws, regulations, usages, or precedents, which may be applicable to the case, and of the arguments, and proofs which may be adduced in support of the claim, shall furnish to the party under his signature a written declaration of his opinion, and of the grounds, upon which that opinion may be formed.—*Reg.* XXVII. 1814, *Sect.* 20, *Cl.* 3.

Rates of fees to be allowed in such cases.

52. If the pleader, who may have furnished such written opinion, shall be attached to the Court of Sudder Dewanny Adawlut, he shall be entitled to a fee of twenty-four Rupees. If he shall be attached to any of the Provincial Courts, he shall be entitled to a fee of sixteen Rupees. If he shall be attached to a Zillah or City Court, he shall be

entitled to a fee of eight Rupees.—*Reg.* XXVII. 1814, *Sect.* 20, *Cl.* 4.

But pleaders who may have accepted a vakalutnamah in the case not authorized to receive such fee.

53. Provided however, that it shall not be lawful for any pleader, who may have received a Vakalutnamah in any suit instituted in a Court of Civil Judicature, to receive the fee above prescribed on account of any legal opinion, which he may subsequently furnish to his constituent respecting any subject or question connected with such suit.—*Reg.* XXVII. 1814, *Sect.* 20, *Cl.* 5.

Pleaders liable to penalties for wilfully furnishing a dishonest opinion.

54. Any pleader, who under the preceding rules may knowingly furnish an opinion of a nature evidently calculated to promote the institution of unfounded or litigious suits, or to discourage the amicable adjustment of dubious claims, shall be liable to be dismissed from his office, and if after furnishing such dishonest opinion he shall be employed as a pleader in the suit, his fees shall be liable to be forfeited by order of the Court, either to Government or to the party whom he may have wilfully misled by such opinion.—*Reg.* XXVII. 1814, *Sect.* 20, *Cl.* 6.

SECT. VIII.

Rates of Deposit of Vakeel's Fees.

Security formerly required for the payment of vakeels' fees no longer necessary.

But the amount of the fees to be deposited in Court.

55. Whenever a pleader may have been duly appointed on the part of any plaintiff or appellant in any regular or summary suit instituted in a Zillah or City Court, a Provincial Court, or in the Sudder Dewanny Adawlut, such plaintiff or appellant instead of furnishing security, as heretofore required shall deposit in the Court a sum equal to the amount of his pleader's fee; according to the rate prescribed in the following section as applicable to regular suits, and in Section 32, as applicable to summary suits, and until such deposit be made, no Vakeel shall be allowed to do any act in the suit except in the case of paupers, or in other cases specially provided for by the Regulations; a similar deposit shall likewise be required from defendants or respondents for the fees of the pleaders, whom they may employ; and until such deposit be made, the Vakeels shall not

be allowed to plead or to perform any act in the suit on the part of their constituents except in the special cases above-mentioned.—*Reg.* XXVII. 1814, *Sect.* 23, *Cl.* 1.

Receipts to be granted for such deposit.

56. A receipt on unstampt paper duly attested by the treasurer of the Court, shall be granted in each instance to the party making the deposit; and a duplicate receipt similarly attested shall be filed with the proceedings in the suit; an account of such deposits shall also be regularly entered into a Register book to be kept by the treasurer of the Court for that purpose.—*Reg.* XXVII. 1814, *Sect.* 23, *Cl.* 2.

And a register book of such deposits to be kept by the treasurer of the Court.

Receipts and register book to be drawn up according to prescribed forms.

57. The receipts shall be drawn up according to the form No. 3, (1) and the register book shall be prepared and kept according to the form No. 4, (2) of the Appendix to this Regulation.—*Reg.* XXVII. 1814, *Sect.* 23, *Cl.* 3.

(1) *Receipt to be granted for Deposits, made on account of Vakeels' Fees.*

I, A. B. treasurer of the Court of do hereby acknowledge to have received this day of , the sum of Sicca Rupees being a deposit made by , on account of the fees, payable to his Vakeel or Vakeels in suit, No. in which the value or amount, claimed by the plaintiff or appellant, amounts to Sicca Rupees ( ).

(2) *Register of Deposits on account of Vakeels' Fees.*

Number of the suit and date of its institution.	*Value or amount claimed.*	*Amount of deposit on account of the Plaintiff or Defendant, &c. &c.*	*By whom deposited and for what vakeel or vakeels.*	*Date of the deposit, & of the receipt for it.*	*Date of the payment to the vakeel and of his receipt.*
No. 759, 25th July 1815.	700 Rs.	Rupees 35, on account of Ramsing appellant.	By Tarneechurn Mokhtar of the appellant, for Meer Syfoo vakeel.	10th of August, 1815.	

In what cases the preceding rules are not applicable.

58. The preceding rules are not intended to be applicable to the fees of Vakeels, employed on the part of paupers, or in presenting to the Courts miscellaneous petitions, or applications of the descriptions mentioned in Section 34, of

this Regulation. (Par. 68.) In such cases no previous deposit or security shall be demanded on account of the Vakeel's fee, but the amount of the fee, which may be ultimately awarded by the Court under Section 35, shall be levied in the manner prescribed for the execution of decrees, in all instances in which the interposition of the authority of the Court may be requisite for the purpose of realizing such fee.—*Reg.* XXVII. 1814, *Sect.* 24.

The deposit for pleaders' fees to be paid into the Court by which the appeal may be tried.

59. The deposit for the pleaders' fees prescribed by Section 23, Regulation XXVII. 1814, in lieu of the security formerly demanded for such fees, is not required to be furnished with the petition of appeal, but in cases in which a pleader shall be appointed to conduct the appeal, the deposit shall be delivered to the Court by which the appeal is to be tried.—*Reg.* XXVI. 1814, *Sect.* 8, *Cl.* 4.

Mode of proceeding when a special appeal may be admitted.

60. If on a consideration of the circumstances of the case, the Court shall see reason for admitting a special appeal on any of the grounds stated in the first clause of this Section, (CHAP. III. Par. 19,) the appellant shall be required to furnish the prescribed security, and to deposit the amount of the fees payable to his pleader under the rules in force, within a reasonable period to be fixed by the Court; when the required security and deposit shall have been duly furnished, the Court will admit the special appeal, and proceed to investigate the suit under the same rules as are prescribed for the trial and determination of regular appeals.—*Reg.* XXVI. 1814, *Sect.* 2, *Cl.* 4.

Party not liable to pay the institution fee nor to furnish the usual deposit or security.

61. The party presenting such petition (of summary appeal,) shall not be liable to the payment of the stamp duty substituted for the institution fee, by Section 13, Regulation I. 1814, nor shall he be required to furnish the deposit for the fee of his Vakeels, or any security, except such as may be eventually necessary under the Regulations is force, for staying the execution of the decree, from which the appeal may be preferred.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 7.

Exception.

SECT. IX.

Rates of Fees in Regular Suits and Appeals.

Specification of the rates of fees payable to vakeels in regular suits.

62. In all regular suits, which may be instituted, either originally or in appeal, subsequently to the 1st February 1815, in any of the Zillah or City Courts, the Provincial Courts, or the Sudder Dewanny Adawlut, the Vakeels employed by the respective parties are to be allowed, for pleading the causes of their clients, the rates of fees calculated as follows:

In suits for money, effects or for other personal property, or for land or other immoveable property of any description, if the amount or value of the claim estimated according to the provisions of Section 14, Regulation I. 1814, shall not exceed 5000 Sicca Rupees, five per cent.

If the amount or value shall exceed 5000 Rupees, and shall not exceed 20,000 Sicca Rupees, on 5,000 as above, and on the remainder, two per cent.

If the amount or value shall exceed 20,000 Rupees, and shall not exceed 50,000 Rupees, on 20,000 as above, and on the remainder, one per cent.

If the amount or value shall exceed 50,000 Sicca Rupees, and shall not exceed 80,000 Sicca Rupees, on 50,000 as above, and on the remainder eight annas per cent.

If the amount or value shall exceed 80,000 Rupees, the fee to the Vakeel shall be one thousand rupees; and shall in no instance exceed that sum, however great may be the value or amount of the suit in which such Vakeel may be employed.—*Reg.* XXVII. 1814, *Sect.* 25, *Cl.* 1.

Fractions of rupees to be rejected in the preceding calculations.

63. In all the preceding calculations, where the amount or value may be in fractions of rupees, such fractions are to be rejected in calculating the fees thereupon.—*Reg.* XXVII. 1814, *Sect.* 25. *Cl.* 2.

SECT. X

Fees in Summary Suits and Appeals.

Provision for

64. When a pleader may be employed in such summary

pleaders' fees in such cases.

appeals, the Court is authorized to award to him such fee, as may be considered to be a sufficient compensation for his labour, provided that it shall in no case exceed one-fourth of the fee to which such Vakeel would have been entitled if the suit had been instituted either as an original suit or as a regular appeal.—*Reg.* XXVI. 1814, *Sect.* 3, *Cl.* 11.

Rule for the payment of pleaders' fees in summary appeals and original summary suits.

65. The Rule prescribed in the Eleventh Clause of Section 3, Regulation XXVI. 1814, relative to the fee receivable by pleaders employed in the summary appeals referred to in that Section, shall be hereafter considered applicable to all summary appeals and original summary suits, authorized by the Regulations, in which a pleader or pleaders may be employed.—*Reg.* XIX. 1817, *Sect.* 9, *Cl.* 2.

Deposits on account of pleaders' fees in such cases not requisite;

but fees awarded on the decision of a case to be paid into Court;

under penalty of such further sum as the Court may direct

66. It shall not be requisite to make any deposit, in the first instance for the fees of pleaders employed in summary original suits or appeals. But whatever amount of fees may be awarded to pleaders on the decision of the case, shall be paid into the Court giving judgment for the same, by the party or parties declared responsible for the payment thereof within such period as may be limited by the Court for that purpose; under penalty for default of being compelled to make good, by the usual process of recovery, any additional sum, which the Court, in consideration of the delay, may Judge it proper to award to the pleaders entitled thereto in such cases.—*Reg.* XIX. 1817, *Sect.* 9, *Cl.* 3.

Pleaders entitled to certain fees on the rejection of special appeals.

67. When an application for a special appeal presented through an authorized pleader to a Zillah or City Court, a Provincial Court, or to the Sudder Dewanny Adawlut, may be rejected by the Court, such pleader shall be entitled to receive from the party employing him any remuneration for his trouble, which the Court may think proper to adjudge; provided, that such remuneration shall in no case exceed one-fourth of the amount of the fee, to which the pleader would have been entitled, had the special appeal been admitted and determined by the Court, nothing in this Section shall be understood to affect any special appeals, which may have been already admitted, and which may be admitted, previ-

ously to the 1st of February 1815, by the Zillah or City Judges, the Provincial Courts, or the Sudder Dewanny Adawlut.—*Reg.* XXVI. 1814, *Sect.* 2, *Cl.* 7.

SECT. XI.

Fees in Miscellaneous Cases.

Pleaders to receive a fee of four annas for presenting miscellaneous petitions and applications.

68. The pleaders in the several Courts of Civil justice are permitted to demand, and receive a fee of four annas for each miscellaneous petition or application which they may present, or motion, which they may make in writing to the Court, provided that such petition, application, or motion, shall not relate to any suit depending before the Court, wherein the person, on whose behalf they may present such petition, or application, or make such motion, may be a party; but all petitions, applications, or motions presented or made to any of the Courts on behalf of parties in a suit, on which the fees prescribed by Sections 25 (Par. 62, 63,) and 32, may have been paid, or may be payable, are to be considered as paid for, by the fee allowed to the pleaders in the above-mentioned Sections; and the pleaders are to make all such motions and do all such acts as may be requisite relative to any suit, in which they may have been entertained, not only during the trial of such suit, but after a decision shall have been passed, until the final judgment shall have been enforced.—*Reg.* XXVII. 1814, *Sect.* 34.

Unless such applications may be connected with a suit, in which the pleader is or may have been employed.

Mode in which such fee is to be paid.

69. The fee, of four annas for miscellaneous petitions and motions prescribed in the above Section, is not required to be deposited in the Court, but is to be paid by the party himself to the Vakeel, at such time as may be mutually agreed upon; but as cases may occur, in which the above fee of four annas may not be a sufficient compensation to the pleader or pleaders, the several Courts of Civil justice are authorized to award such additional fee in any instance as they may consider to be a reasonable compensation to the pleader for the duty performed by him, and to cause payment thereof to be made either by the party, who may have employed such pleader or pleaders, or as costs of suit by the opposite party, as may be deemed just and proper;

Provisions for the payment of a higher fee, in cases on which it may appear to be equitable.

provided, however, that the compensation, which may be awarded in such cases, shall in no instance exceed one-fourth of the established fee to which the pleader or pleaders would have been entitled on a regular suit in the case in question. —*Reg.* XXVII. 1814, *Sect.* 35.

SECT. XII.

Fees in Appeals from Sudder Ameens and Moonsiffs.

How such petitions are to be presented.

70. All petitions of appeal from decisions of Moonsiffs are to be presented by the appellant in person, or by one of the authorized Vakeels of the Court; and if the appeal shall be admitted, and the appellant and respondent shall not plead their cause in person, their respective Vakeels are to be allowed the same fees as in other suits tried before the Judge. —*Reg.* XXIII. 1814, *Sect.* 46, *Cl.* 3.

[Extended to suits in Sudder Ameens' Courts by Section 73, of that Regulation.]

SECT. XIII.

General Rules regarding Fees.

Pleader's fees how to be charged in the judgment.

71. If the decree shall be given against the defendant or respondent, and the whole of the money or property, which may be demanded by the appellant or plaintiff shall be decreed to him, a sum equal to the whole of the fees of his pleader shall be adjudged to the plaintiff or appellant, in addition to the other costs which may be awarded to him, but if only a part of the money or property claimed, is decreed to the plaintiff or appellant, a sum bearing the same proportion to the money or to the value of the thing decreed as the fee did to the demand stated in the plaint or appeal, is to be decreed and added to the costs, which may be awarded to the plaintiff or appellant.—*Reg.* XXVII. 1814, *Sect.* 26, *Cl.* 1.

Continuation of the same subject.

72. If the suit of the plaintiff or appellant shall be dismissed, whether upon an investigation of the merits or otherwise, the plaintiff, or appellant, is to be charged with the fees of his own pleader and with those of the defendant or respondent.—*Reg.* XXVII. 1814, *Sect.* 26, *Cl.* 2.

Proviso.

73. Provided however, that if in any instance the payment of the pleader's fees, according to the preceding rules, should not appear to be just and equitable, the Courts of Civil Judicature may exercise their discretion in charging the fees of the pleaders to the parties respectively, in such proportions as may appear equitable and proper, under a consideration of all the circumstances of the case.—*Reg.* XXVII. 1814, *Sect.* 26, *Cl.* 3.

Discretion vested in the Courts to return a portion of the pleader's fee in certain cases to the party who may have deposited it.

74 When a suit in which one of the parties may have been admitted to plead as a pauper, may be decided with costs in favour of the adverse party, and such pauper cannot make good the full amount of the costs awarded against him, the Courts are authorized to return to such adverse party, any portion of the fee, deposited by him on account of his Vakeel, which may be deemed expedient, and to pay the remaining portion of the fee to the Vakeel entitled to receive it; in exercising this discretion, the Courts will be careful, that the Vakeel receive such a portion of the deposit as may in each instance appear to be a reasonable remuneration for the duty performed by him. The Courts shall further endeavour to realize the remainder of the fee due to such Vakeel, from any property which may subsequently be found to belong to the pauper.—*Reg.* XXVII. 1814, *Sect.* 28.

Pleaders' fees to be paid on the determination of the suit.

75. Upon a decision being passed by the Court, whether upon an investigation of the case or otherwise, the fees of the pleaders deposited in the Court, shall be paid to the persons respectively entitled to receive them, and such payment shall not be stayed or postponed, in consequence of an appeal being preferred from the decision.—*Reg.* XXVII. 1814, *Sect.* 29.

Rules for the payment of vakeels' fees when the suit may be withdrawn or dismissed without an investigation of the merits of the case.

76. If a suit shall be withdrawn or dismissed on default without a determination upon the merits of the case before all the requisite pleadings shall have been filed in Court, the respective pleaders of the plaintiff and defendants, or of the appellant and respondent shall each be entitled to only one-fourth of the established fee which they would have

received, had the suit been brought to a regular decision by the Court. If a suit shall be withdrawn or dismissed on default, after all the requisite pleadings shall have been filed in Court, the respective pleaders are to be entitled to one-half the fees which they would have received, if judgment had been given in the cause. The fees in both of the above-mentioned cases are to be charged to the plaintiff or appellant withdrawing the suit, or suffering it to be dismissed on default, together with all the admitted costs incurred by the defendant or respondent.—*Reg.* XXVII. 1814, *Sect.* 31, *Cl.* 1.

Rules applicable to the fees of pleaders in suits adjusted by razeenamah.

77. The same rule shall be considered applicable to cases adjusted by razeenamah, except that the fees of the pleaders and all other costs of the suit shall be paid by the parties in such manner and proportions as may have been agreed upon and inserted in the razeenamah.—*Reg.* XXVII. 1814, *Sect.* 31, *Cl.* 2.

SECT. XIV.

Receipts for Fees.

Prescribed fees to be received without any deduction.

78. The rules heretofore in force providing for a deduction of five per cent. from the amount of the fees payable to Vakeels having been rescinded by Regulation I. 1814, it is hereby declared, that the Vakeels are to receive the full amount of their fees without any deduction whatsoever; provided nevertheless, that for every sum which may be paid to a Vakeel by a Civil Court, on account of his fees, such Vakeel shall give a receipt, written on the stampt paper prescribed in Section 11, Regulation I. 1814.—*Reg.* XXVII. 1814, *Sect.* 25, *Cl.* 3.

But a receipt to be given for them on stampt paper.

If the fees in several suits do not exceed sixteen rupees, one consolidated receipt for the whole to suffice.

79. When the aggregate amount of fees payable to a Vakeel, in two or more suits, may not exceed sixteen rupees, he shall be allowed to give a consolidated receipt for the total amount, specifying the sum receivable in each suit; instead of a separate receipt for the fee payable in each suit. —*Reg.* XIX. 1817, *Sect.* 10, *Cl.* 2.

APPENDIX.

APPENDIX.

SUITS OF PAUPERS.

No pauper suits to be admitted in which the value of the thing claimed shall not exceed 64 Rs

1. No person shall be hereafter entitled to institute or defend any suit in formâ pauperis in any Civil Court of Judicature, unless the amount or value of the thing claimed shall exceed the sum of sixty-four rupees; under this rule the Moonsiffs are hereby strictly prohibited from receiving or trying any suits which persons may wish to prefer to them in formâ pauperis.—*Reg.* XXVIII. 1814, *Sect.* 3.

Persons preferring claims of certain descriptions not to be admitted to sue as paupers.

2. No person shall be hereafter permitted to institute a suit as a pauper in any Civil Court of Judicature, if the claim shall be for damages on account of loss of cast, slander, abusive language, assaults, or personal injuries of any description; or if the claim shall be for the possession or recovery of deeds or papers, or for fines, forfeitures or pecuniary penalties on account of any breach of the Regulations. —*Reg.* XXVIII. 1814, *Sect.* 4.

Parties desiring to sue as paupers are to present a petition on stampt paper in person

3. Whenever a party may be desirous of instituting an original suit as a pauper in any Zillah or City Court, or in a Provincial Court, he shall appear in person before such Court, and shall present a petition written on the stampt paper prescribed for miscellaneous petitions in Section 18, Regulation I. 1814; provided however, that if the party be a female of a rank and description which according to the prejudices of the country would render it improper to require her personal attendance in a Court of Justice, such petition may be presented by a mokhtar or agent duly authorized for that purpose.—*Reg.* XXVIII. 1814, *Sect.* 5, *Cl.* 1.

Proviso.

What the petition is to contain.

4. The petition shall contain a general statement of the

nature and grounds of the demand, of the value of the thing claimed according to the provisions of Section 14, Regulation I. 1814, of the name of the person or persons intended to be sued, and a schedule of the whole real or personal property, belonging to the petitioner with the estimated value of such property.—*Reg.* XXVIII. 1814, *Sect.* 5, *Cl.* 2.

Petitioner's examination to be taken on oath, with certain exceptions.

5. The Court in which such petition may be presented, or an authorized officer of the Court, shall then proceed to take the examination of the petitioner, or if the petitioner be a female of the description mentioned in Clause First of this Section, the examination of her agent, with regard to the points above noticed, and shall question him particularly with respect to any real or personal property, which the petitioner may have recently sold, mortgaged, transferred, or otherwise disposed of; such examination shall be taken on oath, unless the Court should in any particular instance, judge it proper to admit a solemn declaration in lieu thereof, under the provisions now in force, or any other provisions which may be hereafter enacted.—*Reg.* XXVIII. 1814, *Sect.* 5, *Cl.* 3.

Court to admonish the petitioner in taking his examination.

6. In taking the examination of the petitioner or agent in such cases, it shall be the duty of the Court to admonish him, that any wilful misrepresentation or falsehood, or the fraudulent concealment of any material fact regarding the property in the petitioner's possession, or the recent transfer of such property will subject him to be tried for perjury, and on conviction, to the punishment which is now or may be hereafter prescribed for that crime by the Regulations. The petitioner or agent shall subscribe his examination, which shall then be authenticated by the Court in the usual manner.—*Reg.* XXVIII. 1814, *Sect.* 5, *Cl.* 4.

Courts when to reject the prayer of the petition.

7. If upon such examination it should appear to the Court that the petitioner is possessed of property sufficient to defray the expenses of the suit, or that he has recently sold, mortgaged, or otherwise transferred any property with the view of being admitted to sue as a pauper, the Court will at once refuse to admit his suit in that form, and will

refer him to the general rules in force.—*Reg.* XXVIII. 1814, *Sect.* 5, *Cl.* 5.

Courts how to proceed when they may be desirous of ascertaining the amount of the petitioner's property.

8. If there shall appear any grounds for suspecting that the petitioner is possessed of property, or has recently transferred any property beyond that which he may have acknowledged or stated in his petition and examination, the Court may issue a notice to the adverse party, signifying that if such party shall appear within a reasonable period, to be fixed by the Court, he shall be permitted to shew cause why the plaintiff should not be allowed to sue as a pauper; the Court may also summon witnesses or institute a local inquiry in the neighbourhood of the petitioner's residence, with the view of ascertaining whether the petitioner has recently transferred, or is possessed of any property beyond that stated in his examination.—*Reg.* XXVIII. 1814, *Sect.* 5, *Cl.* 6.

When the petitioner shall have been guilty of perjury he shall be committed to the Court of Circuit.

9. If from the result of such enquiry, or at any subsequent period, it should be satisfactorily established, that the petitioner or the agent of a female petitioner has been guilty of wilful perjury in his examination, the Court will not only refuse the prayer of the petitioner (or nonsuit the plaintiff if the cause be depending,) but will cause the person appearing to have been guilty of perjury to be committed to the Court of Circuit to take his trial for such offence. —*Reg.* XXVIII. 1814, *Sect.* 5, *Cl.* 7.

A party admitted to sue as a pauper shall find two sureties for his appearance.

10. If none of the objections stated in Clauses Fifth and Seventh, of the preceding section, should exist, and the petitioner should not appear to be possessed of sufficient property to enable him to defray the probable expenses of the suit, the Court is empowered to admit him to sue as a pauper on his finding two good and sufficient sureties, both of whom shall be householders, for his appearance whenever his attendance may be required by the Court.—*Reg.* XXVIII. 1814, *Sect.* 6, *Cl.* 1.

The Judge may refer suits in forma

11. When a plaintiff may have been admitted by the Judge or Register of a Zillah or City Court, to institute his

paupers to a Sudder Ameen.

suit, in *forma pauperis* under the rules for paupers contained in Regulation XXVIII. 1814, and the suit may, in other respects, be referrible to a Sudder Ameen, it shall be competent to the Judge to refer the same for trial and decision by one of the Sudder Ameens attached to the Zillah or City Court, or stationed with the Register in any other part of his jurisdiction, and the suit so referred shall be proceeded upon by the Sudder Ameen as in other suits referred to him, subject to the provisions contained in Regulation XXVIII. 1814.—*Reg.* XIII. 1824, *Sect.* 4, *Cl.* 2.

The Courts are authorized in certain cases to direct one of the pleaders to undertake the suit.

12. When the required sureties shall have been furnished, if the pauper shall be unable to prevail on any of the Vakeels of the Court to undertake his suit, and he shall be unable to plead the cause in person, the Court may require any of the authorized pleaders of the Court to undertake and plead the suit, and no deposit shall be required from the plaintiff for the fees of such pleader.—*Reg.* XXVIII. 1814, *Sect.* 7, *Cl.* 1.

Reasons for exercising that power to be recorded.

13. The Courts are to state on the record of the trial their reasons for every exercise of the power vested in them by this Section; and the order of the Court in such cases shall be a sufficient warrant to the Vakeel to plead in the suit without filing the usual Vakalutnamah.—*Reg.* XXVIII. 1814, *Sect.* 7, *Cl.* 2.

Stamp duties and other expenses to be remitted to paupers; pleadings on their part and copy of the decree to be on unstampt paper.

14. The stampt duty which has been substituted for the institution fee by Regulation I. 1814, shall not be required from plaintiffs who may be admitted to sue as paupers under this Regulation. The plaint, reply, or other pleadings on the part of the plaintiff, as well as applications on his part for receiving exhibits and summoning witnesses, may be written on unstampt paper. The notice to the defendant, the summons for witnesses and other processes on the part of the plaintiff shall be served through the chuprassies on the establishment of the Courts without any expense to the plaintiff; and the copy of the decree, as well as copies of orders or proceedings which he may be required to take, shall be

furnished to a pauper plaintiff on unstampt paper.—*Reg.* XXVIII. 1814, *Sect* 8.

All costs and expenses to which the plaintiff would have been liable, had he not been admitted to sue as a pauper to be inserted in the decree.

15. On the conclusion of the suit, the Court shall calculate the whole of the costs which would have been incurred by the plaintiff on account of the several stampt duties prescribed by Regulation I. 1814, and other legal expenses, had he not been permitted to sue as a pauper, and shall charge the same in the decree to the party cast, or to the parties respectively, in such proportions as may be deemed equitable.—*Reg.* XXVIII. 1814, *Sect.* 9.

The fees of the pauper's pleader when to be paid by the defendant.

16. If the pauper plaintiff shall gain his suit, the Court will cause the defendant to make good the amount of the fees due to the pleader who may have been employed on account of the plaintiff, or such part of them as the Court may decree.—*Reg.* XXVIII. 1814, *Sect.* 10, *Cl.* 1.

If the claim be dismissed the defendant is to pay to his own pleader such adequate compensation as the Court may direct.

17. If the claim of the plaintiff be dismissed with costs, the Court is authorized and required to levy from the defendant such part only of the established fee for his own pleader as may appear to be an adequate compensation, leaving the remainder to be recovered from any property that may subsequently be found to belong to the plaintiff.—*Reg.* XXVIII. 1814, *Sect.* 10, *Cl.* 2.

Pauper plaintiffs under certain circumstances liable to a sentence of 6 month's imprisonment.

18. If the plaintiff shall not establish his claim, and the Court shall deem the suit to be unfounded, vexatious, or wilfully exaggerated, and the plaintiff shall not pay the amount of his own fees, and the fees and costs which may be awarded against him in favour of the opposite party the Court is authorized to commit him to close custody in the Civil Jail, without labour, for a period not exceeding six months.—*Reg.* XXVIII. 1814, *Sect.* 11, *Cl.* 1.

Execution of such sentence not to be suspended on account of an appeal being preferred from the decision.

Proviso.

19. Such order of confinement shall be carried into immediate execution, and shall not be suspended in consequence of the plaintiff's being desirous of appealing from the judgment; provided however, that the plaintiff shall at any time be entitled to his discharge from such confinement on his

paying into Court the full amount of the costs and expenses awarded against him in the decree.—*Reg.* XXVIII. 1814. *Sect.* 11, *Cl.* 2.

Sureties failing to produce a pauper plaintiff liable to six months imprisonment.

20. If the pauper plaintiff shall abscond, and his sureties shall not produce him before the Court, and the order for his imprisonment cannot therefore be carried into effect, the said sureties shall be called upon to make good the full amount of the costs adjudged against the plaintiff. In the event of their refusing or failing to make good the costs, the Court is authorized to commit them to close custody, without labour, in the Civil Jail for a period not exceeding six months, subject to the provision contained in Clause Second of this Section.—*Reg.* XXVIII. 1814, *Sect.* 11, *Cl.* 3.

Court to realize the costs due from paupers notwithstanding their imprisonment or the imprisonment of their sureties.

21. The confinement of a pauper plaintiff, or of his sureties, under this Section, shall not preclude the Court from realizing the costs and expenses adjudged against a pauper plaintiff, but in all cases in which such plaintiff may fail to make good the costs and expenses to which he may be declared liable in the decree, whether those costs may be due to the defendant or to Government, the Court shall endeavour to realize the amount by the sale of any property which may belong to the plaintiff either at the time of the decree or subsequently thereto.—*Reg.* XXVIII. 1814, *Sect.* 11, *Cl.* 4.

Persons desirous of appealing as paupers to present a petition to the superior Court.

22. If any party to an original suit may be desirous of appealing in *forma pauperis* from the decision passed in such suit, he shall present a petition in the mode prescribed by Clause First, Section 5, of this Regulation, (Par. 3,) to the Court by which his appeal may be regularly cognizable under the Regulations.—*Reg.* XXVIII. 1814, *Sect.* 12, *Cl.* 1.

With copy of the decree.

What the petition is to contain.

23. Such petition shall be accompanied by an authenticated copy of the decree, and shall contain a schedule of the whole real or personal property belonging to the petitioner and the estimated value of such property, together with a statement of the specific grounds on which the petitioner may desire to prefer an appeal.—*Reg.* XXVIII. 1814, *Sect.* 12, *Cl.* 2.

Court when to reject the petition.

24. If upon a perusal of the petition and the copy of the decree, the original judgment shall not appear to the Court to be erroneous or unjust, or if the nature of the cause shall not appear to be of sufficient importance to merit a further investigation in appeal, the Court will reject the petition, and will refuse to admit the petitioner to sue in appeal as a pauper.—*Reg.* XXVIII. 1814, *Sect.* 12, *Cl.* 3.

Proviso.

25. Provided however, that the petitioner shall nevertheless be entitled to institute his appeal on performing the conditions of appeal prescribed by the Regulations for persons not suing as paupers.—*Reg.* XXVIII. 1813, *Sect.* 12, *Cl.* 4.

In what cases the Court may admit the petitioner to appeal as a pauper.

26. If upon the perusal of a petition presented under the preceding Section, and of the copy of the decree accompanying it, the Court shall be of opinion that there is reason to believe the judgment to be erroneous or unjust, or that the nature of the cause renders it deserving of a further investigation in appeal, the Court is empowered to admit the appeal subject to the rules and conditions prescribed in Sections 5 and 6 (Par. 3—10,) of this Regulation; Sections 7, 8, 9, 10, and 11, (Par. 12—21,) shall also be considered applicable to persons who may be admitted to appeal in *formâ pauperis*.—*Reg.* XXVIII. 1814, *Sect.* 13.

Subject to what rules.

Pauper plaintiffs who may have gained their suit to be admitted to respond in appeals as paupers.

27. If a decision be passed in any original suit in favour of a pauper plaintiff, and the adverse party shall appeal from such decision, the principles of the rules contained in Sections 7, 8, 9 and 10, shall without any further enquiry be considered applicable to the respondent or original pauper plaintiff in such appealed suit, provided that the execution of the original decree shall have been suspended during the appeal.—*Reg.* XXVIII. 1814, *Sect.* 14.

Proviso.

Amount of the stamp duty paid on appeal to be returned to the appellant in certain cases.

28. If a decision in favour of a pauper plaintiff be reversed in appeal, the amount of the stamp duty substituted for the institution fee which may have been paid by the appellant, shall be returned to him by the Court, together with such portion of the deposit which may have been made by

and recovered with other costs from the respondent's property.

him on account of the fee payable to his vakeel, as may be deemed reasonable, and the amount of such stampt duty and deposit, as well as all other costs and expenses which may be awarded in the decree against the respondent, shall be recovered from any property which the respondent may at any time be found to possess.—*Reg.* XXVIII. 1814, *Sect.* 15.

The provisions of Regulation XXVIII. 1814, extended to the admission of such second or special appeals in formâ pauperis as may be hereafter deemed admissable under the rules in force.

29. Regulation XXVIII. 1814, relative to paupers, not containing any specific provision respecting pauper appellants or respondents in second or special appeals, it is hereby declared that the provisions in that Regulation respecting appeals in *formâ pauperis* from decisions passed in original suits, shall after the promulgation of the present Regulation, be considered applicable to any second, or special appeals, which may be preferred in *formâ pauperis;* and which may be hereafter deemed admissable under the Rules specified in the preceding Section.—*Reg.* II. 1825, *Sect.* 5.

Copies of the proceedings and judgments of the Sudder Dewanny Adawlut may in certain cases be written on unstampt paper.

30. Copies of the proceedings and judgments of the Sudder Dewanny Adawlut, in appeal to the King in Council, which are required to be written on stampt paper, of a prescribed value, by Section 19, Regulation I. 1814, shall be furnished without expense to paupers, who may be parties in such appeals, and shall be written on unstampt paper of European manufacture.—*Reg.* XXVIII. 1814, *Sect.* 18.

Defendants or respondents wishing to plead as paupers to present a petition to the Court.

31. If a defendant or respondent, in any suit (except in the case provided for by Section 14,) (Par. 27,) shall be desirous of being admitted to plead in *formâ pauperis*, he shall appear either in person, or by an authorized agent, before the Court in which the suit may be depending, in conformity with the rules prescribed in Clause First of Section 5, (Par. 3,) of this Regulation; and shall present a petition, containing an exact schedule of the whole, real or personal property belonging to him, and the estimated value of such property.—*Reg.* XXVIII. 1814, *Sect.* 16, *Cl.* 1.

Court how to proceed.

32. The Court to whom such petition may be presented, shall then proceed in conformity with Clauses Third, Fourth,

Fifth, Sixth, and Seventh, of Section 5, of this Regulation; (Par. 5—9.)—*Reg.* XXVIII. 1814, *Sect.* 16, *Cl.* 2.

And in what cases authorized to comply with the prayer of the petition

33. If after the examination and enquiries, prescribed in those clauses, the Court shall be satisfied that the petitioner is not possessed of sufficient property to defray the probable expenses of the suit, and that he can neither plead the suit in person, nor prevail on any of the authorized pleaders of the Court to undertake the defence of the suit, the Court is empowered to grant to the petitioner the same advantages and facilities in the defence of the suit as are allowed to pauper plaintiffs and appellants, under Sections 7, 8, 9 and 10, (Par. 12—17,) of this Regulation, and no security except for personal appearance, shall be required from such defendant or respondent.—*Reg.* XXVIII. 1814, *Sect.* 16, *Cl.* 3.

Explanation that miscellaneous petitions and applications are to be written on the prescribed stampt paper.

34. Doubts having arisen whether the Courts of Civil and Criminal Judicature, the Board of Revenue, the Board of Commissioners, the Collectors, and other public officers, are authorized to receive from persons professing themselves to be paupers, any miscellaneous petitions or applications, which are required to be written on stampt paper, or any other paper, than the prescribed stampt paper; it is hereby declared, that such petitions or applications shall not be received by any of the said authorities except on paper bearing the prescribed stamp. Provided however, that the Courts of Criminal Judicature shall be at liberty to receive petitions on unstampt paper from prisoners, who may be confined under examination or sentence in any of the Criminal jails. —*Reg.* XXVIII. 1814, *Sect.* 19.

Proviso.

Courts of Civil Judicature empowered in certain cases to receive petitions on unstampt paper from persons in confinement under a decree of Court, or under any judicial process Civil or Criminal.

35. In addition to the provision contained in Section 19, Regulation XXVIII. 1814, whereby the Courts of Criminal Judicature are declared at liberty to receive petitions on unstampt paper, from prisoners who may be confined under examination, or sentence in any of the Criminal Jails, it is hereby provided, that the Courts of Civil Judicature may receive petitions upon unstampt paper from prisoners who may be in actual confinement, under a decree of Court, or under any judicial process, Civil or Criminal, if the Court

to which the petition may be presented, shall be satisfied, by the oath of the party, or otherwise, that he is unable to pay the prescribed stamp duty, for the purpose of delivering such petition upon stampt paper, or without any oath or proof to this effect, if the petition shall relate to any ill treatment alleged to have been sustained by the prisoner, during his confinement, from an officer of the jail or other person.—*Reg.* IV. 1816, *Sect.* 2.

STAMPS.

SCHEDULE (A) *referred to in Section III. of the Regulation, containing a specification of the Duties chargeable on Instruments of Conveyance, Contract, Obligation, and Security for Money, and on Deeds in general.*

1. *AGREEMENT, IKRAR,* or any Minute, or Memorandum of an *AGREEMENT* concerning any matter or thing, not otherwise charged in this Schedule, nor expressly exempted from all Stamp Duty, whether the same be only evidence of a Contract or Obligatory upon the party—if relating to matters capable of valuation, and with the value stated, ...	To be charged as herein under prescribed for Bonds of the same amount.
2. *AGREEMENT* for a Monthly or Annual Payment,	To be estimated at the amount of ten years payment, or of the total sum secured, if less
3. *AGREEMENT* to perform any legal act, or for a purpose not restricted to, or specifying any amount,	To be executed on such Stamp as the parties may determine, but no recovery can be made on the Instrument in any Court of Justice of a larger amount than may be covered by the Stamp at the rate prescribed in the Schedule for Bonds.

EXEMPTIONS.

Memorandum of Agreement for the hire of labour.

Ditto all Agreements carried on by letter through the Public Dawk between merchants and other persons.

4. *BILLS OF EXCHANGE, DRAFTS, PROMISSORY NOTES, HOONDEES, TEEPS, BURATS,* and other Orders or Obligations for the payment of Money, payable (if payable within the Provinces subordinate to this Presidency) at sight, or on demand, or at the periods specified below (not being Deeds, Instruments, or Writings, bearing the attestation of one or more witnesses) together with all Bills of Exchange payable out of the said provinces at whatever date.

	At sight or on demand, or not exceeding three months, to be charged.		Exceeding three months after date, and not exceeding one year, to be charged.	
	Sa. Rs.	A.	Sa. Rs.	A.
If for a sum of money not exceeding 25 Rs.	0	1	0	2
Above 25 Rs. & not exceeding 50 „	0	2	0	4
„ 50 „ ..... Ditto 100 „	0	4	0	8
„ 100 „ ..... Ditto 200 „	0	8	0	12
„ 200 „ ..... Ditto 400 „	0	12	1	0
„ 400 „ ..... Ditto 800 „	1	0	1	8
„ 800 „ ..... Ditto 1,600 „	1	8	2	0
„ 1,600 „ ..... Ditto 3,000 „	2	0	2	8
„ 3,000 „ ..... Ditto 5,000 „	2	8	4	0
„ 5,000 „ ..... Ditto 10,000 „	4	0	6	0
„ 10,000 „ ..... Ditto 20,000 „	6	0	8	0
„ 20,000 „ ..... Ditto 30,000 „	8	0	12	0
„ 30,000 „ ..... Ditto 50,000 „	12	0	16	0
„ 50,000 „ ..... Ditto 1,00,000 „	16	0	20	0
„ 1,00,000 „ .... „	20	0	25	0

5. *BILLS OF EXCHANGE, PROMISSORY NOTES,* &c. intended to be re-issued, ... } Shall be charged as prescribed for Promissory Notes payable at a date exceeding three months.

6. *BILLS OF EXCHANGE, PROMISSORY NOTES,* &c. of date exceeding one year, ... } To be charged as Bonds.

Note.—The Governor General in Council reserves to himself the power of admitting any Bank or Company to

compound for the Stamp Duty chargeable on the Promissory Notes issued by it. Notice of such arrangements shall be given in the Government Gazette. *Sa. Rs.* *A.*

EXEMPTIONS.

Bills of Exchange or Hoondees for any sum of Money if drawn bonâ fide from any place distant more than 100 *miles from the place where the same are made payable, and not negociated after acceptance, also Foreign Bills of Exchange drawn in Sets.*

Provided, however, that if any Bill or Bills of Exchange drawn in any part of the Continent of India, and made payable in the Provinces, subject to this Presidency, shall be negociated therein after acceptance, or be in any way transferred after acceptance to a third party, other than the acceptor and the payee of such Bill or Bills, the exemption shall not hold in respect to any such negociated Bill or Bills, unless the same shall be taken to be stamped prior to such negociation, or unless there be affixed to each Bill a Copy of the same executed on Paper stamped with the Stamp to which such Bill is declared liable in this Schedule.

EXEMPTIONS CONTINUED.

Bills of Exchange drawn and Promissory Notes, &c. issued by Government Officers authorized to draw Bills upon the Government Treasuries, or to issue Promissory Notes or other acknowledgements on account of Government.

All drafts or Orders for the payment of any sum of Money to the bearer on demand, drawn upon any Bank, Banker, or Agent, residing within twenty miles of the place where such Draft or Order shall be issued, such place being specified on the face of the Draft.

BILLS OF SALE.—See Conveyance and Mortgage.

7. *BONDS, TUMUSOOKS* and other Attested Obligations for the payment of Money, also *PROMISSORY*

NOTES and *BILLS OF EXCHANGE, TEEPS, BURATS*, and the like, of date exceeding one Year.	Rs.	A.
If for any sum not exceeding ... ... 25 Rupees,	0	2
Above 25 Rs. and not exceeding 50 „	0	4
„ 50 „ ... Ditto ... 100 „	0	8
„ 100 „ ... Ditto ... 200 „	1	0
„ 200 „ ... Ditto ... 300 „	2	0
„ 300 „ ... Ditto ... 500 „	4	0
„ 500 „ ... Ditto ... 1,000 „	6	0
„ 1,000 „ ... Ditto ... 2,000 „	10	0
„ 2,000 „ ... Ditto ... 3,000 „	16	0
„ 3,000 „ ... Ditto ... 5,000 „	20	0
„ 5,000 „ ... Ditto ... 10,000 „	32	0
„ 10,000 „ ... Ditto ... 20,000 „	40	0
„ 20,000 „ ... Ditto ... 50,000 „	64	0
„ 50,000 „ ... Ditto ... 75,000 „	70	0
„ 75,000 „ ... Ditto ... 1,00,000 „	80	0
„ 1,00,000 „ ... Ditto ... 1,50,000 „	100	0
„ 1,50,000 „ ... Ditto ... 2,00,000 „	120	0
„ 2,00,000 „	150	0

and a further duty of 100 Rupees for every sum of one Lack in excess of the said amount of two Lacks of Rupees.

8. *BONDS*, given as security for the transfer of Government Securities, or for the payment of an Annuity for a fixed period, or for the delivery or accounting for any matter or thing capable of being valued, ... — Shall be charged at the rate of the amount engaged to be paid or accounted for, or at the value of the thing to be delivered or transferred.

9. *BONDS*, for Annuities for an indefinite period, such as Life Annuities, and the like, ... — Shall be charged at the rate of ten times the yearly payment.

10. *BONDS*, when the amount of the Money to be secured, or ultimately recovered, shall be uncertain and unlimited, ... — May be executed on such Stamp as the party may please, but no recovery shall be made thereon in any Court of Justice of a larger amount than is covered by the Stamp.

	Sa. Rs.	A.
11. *BONDS*, for the due execution of an Office, or Work, Mochulkas, and the like taken by Individuals, and all other Bonds not otherwise charged or exempted from duty	On optional Stamp as above, with like condition.	
12. When the amount is limited to a certain sum, ...	The same as on a Bond for such limited sum.	

EXEMPTIONS.

ARBITRATION BONDS.

BONDS, given to or by the officers of Government on account of any matter, or thing of, or belonging to the Government in its Political or Territorial capacity.

13. *SECURITY BONDS*, which may be taken by or by order of any Court, Collector, or other Judicial or Revenue authority, also Razeenamahs, Sooluhnamahs, and Ruffanamahs, filed in any Suit pending in a Court of Justice, ... — To be charged as specified and prescribed in Schedule B for Law Papers.

14. *CHARTER PARTIES*, or any *AGREEMENT* of *CONTRACT* for the Charter of any ship or vessel, or any Memorandum, Letter, or other writing between the Captain, Master, or Owner of any ship or vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects on board of such ship or vessel, ... — If the amount payable under the Deed exceeds one thousand Rupees, eight Rupees—and if less than one thousand Rupees, according to the Scale prescribed for Bonds.

EXEMPTIONS.

Charter Parties of ships or vessels taken up by Government for the conveyance of Troops or Military Stores, or for other Political purposes.

15. *CONTRACTS* and *DEEDS*, if not otherwise charged or exempted from duty, ... — As Agreements.

16. *COPARTNERSHIP, DEEDS of* 8 0

	Sa. Rs.	A.
17. *COMPOSITION DEEDS*, or other Instruments of Composition between a debtor or debtors, and his, her, or their creditors, ...	8	0

18. *CONVEYANCES, (KUBALAS, BYNAMAS, HIBANAMAS)* or Deeds or Instruments of any kind or description whatsoever executed for the sale or transfer for a consideration of any lands, tenements, rents, annuities, or other property, real or personal, heritable or moveable, or of any right, title, interest or claim to, or upon any lands, houses, rents, annuities, or other property, that is to say, for or in respect of the principal or only Deed, Instrument, or Writing whereby the property sold shall be conveyed to or otherwise vested in the purchaser, or purchasers, or to some other person, by his or their directions.

When the purchase or consideration-money therein expressed or denoted shall not exceed				...	...	50	Rupees,	0	8
Above	50	Rs.	and not exceeding,			100	„	1	0
„	100	„	...	Ditto	...	200	„	2	0
„	200	„	...	Ditto	...	500	„	4	0
„	500	„	...	Ditto	...	1,000	„	8	0
„	1,000	„	...	Ditto	...	2,000	„	12	0
„	2,000	„	...	Ditto	...	3,000	„	16	0
„	3,000	„	...	Ditto	...	5,000	„	20	0
„	5,000	„	...	Ditto	...	8,000	„	32	0
„	8,000	„	...	Ditto	...	12,000	„	40	0
„	12,000	„	...	Ditto	...	20,000	„	50	0
„	20,000	„	...	Ditto	...	30,000	„	64	0
„	30,000	„	...	Ditto	...	50,000	„	80	0
„	50,000	„	...	Ditto	...	1,00,000	„	100	0
„	1,00,000	„	...	Ditto	...	2,00,000	„	150	0
And for every further Lack of Rupees beyond Two Lacks,								100	0

Note.—When, of several Deeds, Instruments, or Writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to engross the same on Paper, Parchment, Vellum, or the like stamped for the prescribed advalorem duty.

	Sa. Rs.	A.
19. Provided, however, that in all cases where there are more Deeds than one, all other Deeds than the principal shall be charged with a like stamp to the principal Deed if of value not exceeding eight Rupees, (which sum shall be the maximum duty on collateral Deeds,) and all such collateral Deeds shall specify by their contents, which other is the principal Deed by which the Conveyance has been effected, certifying, that it is executed in the manner and on material stamped as required.		

EXEMPTIONS.

All Grants, Leases, Sales, or the like, wherein Government, in its Political or Territorial Capacity, is a party.

Note.—This exemption shall not extend to sales made for the recovery of arrears of revenue or rent, or in satisfaction of Decrees of Court, in which cases the purchasers shall be required to pay the prescribed duty along with the purchase-money, and shall receive from the Officer conducting the sale, a Deed of Sale (Bye-Nama,) executed on paper impressed with a corresponding Stamp.

EXEMPTIONS CONTINUED.

All transfers of Subscriptions to any of the Government Loans, or other Government Securities, also of Bank Shares.

20. *COPIES—COPY,* or *COUNTERPART* of any Deed or Instrument attested to be a true copy and furnished to a party to the same, for the purpose of being given in evidence for the recovery of any sum of money, property, interest, or right secured thereby,	The same Duty as prescribed for the Original Deed by this Regulation.	
21. Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the agreement, contract, bond, deed, or other instrument, per sheet,	0	8

	Sa. Rs.	A.
22. *COPY* or Extract of any Deed, Instrument, Schedule, Receipt, or other matter annexed to any Agreement, Contract, Bond, Deed, or other Instrument, per sheet, ...	0	8
23. Authenticated Copies of any Records, Letters, Accounts, Statements, Reports, or other Writings furnished to individuals from any of the public offices of Government, shall be written on paper of the size and description now used for the purpose, and called Copy Paper at the Stamp Office, and of the value for each and every sheet of, ...	0	8

For Copies of Judicial Papers to be given from the Courts of Justice, Revenue Kucherries, &c.—See Schedule B.

EXEMPTIONS.

Copies made for the private use only of any person having the custody of the Original Instruments, or of his or her Attorney or Solicitor, and Copies of Deeds, &c. retained in Public Offices on returning the Originals.

Copies of Papers which Public Officers are directed by any General Regulation to make, require, or furnish, not being specially declared chargeable with Stamp Duty.

24. *DEEDS*, of any kind, not otherwise particularized in this Schedule, ...	As Agreements.
25. *EXCHANGES*—Any Deed, whereby any Real Property shall be conveyed, or surrendered in exchange for other Property.	
If no sum of money shall be paid or agreed to be paid for equality of exchange, ...	8 0
26. And if any sum of Money be paid or agreed to be paid for equality of exchange, ...	The same advalorem Duty as for a Conveyance for such sum.

27. *ENGAGEMENTS* to cultivate, provide, or deliver Indigo Plant, or to produce, manufacture, provide or deliver any other Article of Commerce, in consideration of advance made, ... — *Sa. Rs. A.* Shall be charged on the amount advanced at the rate of Bonds.

28. *LEASES.* Any Lease made in perpetuity, or for a term of years or period determinable, with one or more lives, or otherwise Contingent, in consideration of a Sum of Money paid in the way of premium, fine, or the like, if without rent, ... — The same Duty as for a Conveyance or Sale for a sum of the amount of such consideration.

29. Any *LEASE OF LANDS, HOUSES, or other REAL PROPERTY* at a Monthly or Yearly Rent, without any payment of any Sum of Money by way of fine or premium.

Where the Rent calculated for a whole Year shall exceed Twelve Rupees, but not	For a period not exceeding one year, *Sa.*	*Rs.*	For a period exceeding One Year, *A.*	
exceed 24 Rupees, ...	0	4	0	8
Exceeding 24 Rs. but not exceeding 50 Rs.	0	8	0	12
„ 50 „ ..... Ditto 100 „	0	12	1	0
„ 100 „ ..... Ditto 250 „	1	0	2	0
„ 250 „ ..... Ditto 500 „	2	0	4	0
„ 500 „ ..... Ditto 1,000 „	4	0	8	0
„ 1,000 „ ..... Ditto 2,000 „	8	0	12	0
„ 2,000 „ ..... Ditto 4,000 „	12	0	16	0
„ 4,000 „ ..... Ditto 6,000 „	16	0	20	0
„ 6,000 „ ..... Ditto 10,000 „	20	0	32	0
„ 10,000 „ ..... Ditto 50,000 „	32	0	64	0
Above 50,000	64	0	80	0

30. Any *LEASE OF LANDS, HOUSES* or other *REAL PROPERTY* stipulating for a Yearly Rent, and granted in consideration of a fine or premium, ... — Shall be charged with a Duty equal to both advalorem duties above provided, viz. both as Lease and Conveyance.

31. The *COUNTERPART* of any *LEASE*, i. e. the *KUBOOLEUT*, or the like, ... — Shall be executed on Paper, Vellum, or Parchment, bearing the same Stamp as the Original.

	Su.	Rs.	A.
EXEMPTIONS.			
All Leases, where the Annual Rent shall not exceed Twelve Rupees.			
All Leases, or Pottahs given by authority of Government, or of the Board of Revenue, with their Counterparts, and all Security Bonds, executed as part of the same transactions; also all Leases, viz. Pottahs and Kubooleuts, executed and exchanged with Ryots, and other actual Cultivators of the Soil.			
Note.—Leases, Pottahs, Kubooleuts, or other Instruments of Contract between Zemindars, Talookdars, or other Holders or Proprietors of Land, whether subject to the payment of Revenue to Government or otherwise, or between Farmers, Kutkenadars, Ijaradars, or other Tenants, on one hand, and any other Talookdar, Kutkenadar, Ijaradar, or other Lease-holder, intermediate between the Ryots or actual Cultivators and the Sudder Malgoozar or Lakherajdar, on the other, ...	Shall be written on Stampt Paper of the value above prescribed for Leases.		
LETTERS, or POWERS OF ATTORNEY, MOOKTARNAMAS, &c. viz.			
32. *POWERS* to perform any one special, that is to say, particular act, or the acts connected with one particular suit, case, or transaction, ...		0	8
33. *GENERAL*, i. e. not restricted as above to one case, suit, or transaction, ...		4	0
EXEMPTIONS.			
Wukalutnamahs, Mooktarnamas, and other Powers required to be filed for the conduct of Suits pending before the Native Courts of Judicature or before the Revenue Authorities, for the rule regarding which, see Schedule B, "Law Papers."			

	Sa. Rs.	A.
34. *LETTERS OF LICENSE*, from *CREDITORS* to *DEBTORS*, ...	8	0

35. *MORTGAGES*, any Deed of *MORTGAGE* or *CONDITIONAL SALE, KUTKUBALA, BYE BIL VUFA, BHOG-BHUNDUK, &c.* with or without Possession given, of or for any Lands, Estates, or Property, real or personal, intended as a Security for Money due, or to be lent thereupon: also, any Deed or Contract accompanied with a Deposit of Title Deeds to any Property, where the same may be made as a Security for payment of Money due or lent at the time, ... — Shall be charged after the same manner and at the same rates as if in lieu of such Deed of Mortgage or the like, a Bond had been taken for the sum due or lent at the time.

36. *DEEDS of MORTGAGE*, or the like, given as Security for the Transfer of Government Securities, or for the payment of an Annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued, ... — Shall be charged at the above rate for the total amount assured, or for the bona fide value.

37. *DEEDS of MORTGAGE* given for the Security of Annuities for an indefinite period, such as Life Annuities and the like, ... — Shall be charged at the rate of ten times the annual payment

38. Where the total amount secured by such Mortgage is unlimited, ... — The Deed may be executed on such Stamp as the Party may choose, but no further sum can be recovered thereon, than may be covered by the Stamp.

39. Where it may be stipulated that the amount secured by such Mortgage shall not exceed a certain sum, ... — At the rate of such limitation.

Note.—When a Bond may have been already taken for the amount secured, or where, from any other cause, the Mortgage shall act merely as a Collateral Security to some other transaction already charged with the advalorem duty thereupon, the same being specified in the body of the Deed of Mortgage, ... — The Deed to be charged as a Collateral Deed. See Note after Conveyances.

	Sa. Rs.	A.
Likewise, in case of there being more Deeds than one required to execute the Mortgage in the manner desired by the parties, the principal Deed only shall be charged with the advalorem duty, and all other Deeds connected with the same transaction, ...	Shall be charged as prescribed in the rule for Collateral Deeds, under Head Conveyance.	
40. *MORTGAGES, ASSIGNMENTS, ACKNOWLEDGEMENTS,* or Promissory Notes granted to the Treasurer, or other Officer of the Bank of Bengal on account of the Bank, or to any private Banker or Agent for Loans or Advances made on the Deposit of Government Securities, Bullion, Plate, Jewels, or other Goods, ...	To be charged as Promissory Notes.	
41. *PARTITIONS* by private Agreement of Heirs and Co-Sharers, or made by Public Officers of Estates, or Property real or personal or in the nature of Separation of Brotherhood, as amongst Hindoos, when a Sharer's portion exceeds in value Rupees Eight Hundred, then on every such Sharer's copy of the Deed of Partition, ...	8	0
When the Sharer's portion shall not exceed 800 Rupees, Then if not exceeding 100 Rupees, ...	0	8
Exceeding 100 Rupees and not exceeding 200 Rupees,	1	0
200 ..... 400	2	0
400 ..... 600	4	0
600 ..... 800	6	0
And if any sum or sums of Money shall be paid or agreed to be paid for equality of Partition, ...	The principal Deed stipulating for such payment shall be charged besides with the advalorem duty, prescribed for a Conveyance or Sale for an equal Sum.	
42. *POLICY OF ASSURANCE, or INSURANCE,* or other Instrument, by whatever name the same shall be called, whereby an Insurance shall be made upon any life or lives, or upon an event depending upon any life or lives.		

				Sa. Rs.	A.
Where the sum ensured shall not exceed Sa. Rs.			5,000	4	0
Exceeding	5,000	not exceeding	10,000	8	0
„	10,000	..... Ditto	20,000	12	0
„	20,000	..... Ditto	50,000	16	0
		Above „	50,000	20	0

43. *POLICY OF INSURANCE* of any Ship, Vessel, Sloop, Lighter, Boat, or the like, or of any Goods or Property on board, or upon the Freight of any Ship, Vessel, Sloop, Lighter, Boat, or the like, or upon any other interest relating thereto, or upon any Voyage where the premium shall not exceed Two per Cent. on the sum insured, if the whole sum insured shall not exceed One Thousand Rupees, ...	0	8
If the sum insured exceed One Thousand Rupees, then for every One Thousand Rupees, and also for any fractional part of One Thousand Rupees whereof the same shall consist, ...	0	8
Where the Premium shall exceed Two per Cent on the sum insured, if the whole sum shall not exceed One Thousand Rupees, ...	1	0
If the sum insured exceeds One Thousand Rupees, then for every One Thousand Rupees and also for any fractional part of One Thousand Rupees whereof the same shall consist, ...	1	0
PROMISSORY NOTES, ...	See Bills of Exchange.	
PROMISSORY NOTES, payable at a period exceeding One Year after date, ...	See Bonds.	
44. *PROMISSORY NOTES* for the payment of any sum by Instalments, i. e. *KISTBUNDEES*, or for the payment of several sums at different dates, so that the whole of the Money to be paid shall be definite and certain, ...	The same Duty as would be chargeable on a Bond for the whole amount	

	Sa. Rs.	A.
All Receipts for Money deposited in any Bank, or in the hands of any Banker or Agent, if the same shall stipulate for the payment of interest upon the Money so deposited, or in hand, shall be deemed and taken to be Promissory Notes.		

45. *RECEIPTS* or *DISCHARGES* given for any, or upon the payment of any Sum of Money,

Exceeding	50	Rupees	not exceeding	100	Rupees,	0	2
„	100	„	... Ditto ...	200	„	0	4
„	200	„	... Ditto ...	500	„	0	8
„	500	„	... Ditto ...	1,000	„	0	12
„	1,000	„	... Ditto ...	2,000	„	1	0
„	2,000	„	... Ditto ...	3,000	„	1	8
„	3,000	„	... Ditto ...	5,000	„	2	0
„	5,000	„	... Ditto ...	8,000	„	2	8
			Above ...	8,000	„	4	0
Also for a Receipt in Full of all Demands, ...						4	0

And any Instrument, Note, Memorandum or Writing, given upon the payment of Money, whereby any Money, Debt, or Demand, or the part thereof therein specified, shall be expressed or acknowledged to have been paid, settled, or otherwise satisfied, shall be deemed to be a Receipt for the amount so declared to be paid or satisfied. The Duty is to be paid by the Party giving the Receipt, and if a Stamped Receipt be refused, the Party making the payment may provide the Stamp, deducting the value thereof from the sum due.

And if any such Instrument or other Writing shall contain a general acknowledgement of the settlement of Debts, Accounts, or other Demands, without specifying the amount thereof, such Instrument or Writing shall be deemed and taken to be a Receipt in Full of all Demands, and charged accordingly.

And if payment be made by Delivery of a Bill or Bills of Exchange, Draft or Drafts, Promissory Note, or the like Securities of Money, the Receipt or Acknowledge-

ment given thereupon, shall be deemed to be a Receipt within the meaning of this Schedule. *Sa. Rs.* *A.*

EXEMPTIONS.

Receipts for Money paid or received by any Officer of Government on account of Government, not in the Commercial Department.

Receipts or Discharges for the Rent of Land granted by any Zeminder, Talookdar, Farmer or other Malgoozar, or by any Holder or Proprietor of Land held exempt from the payment of Revenue, or by any Mofussil Talookdar, Ijaradar, Kutkenadar, or other Lease-holder, or by the Gomashta, Factor, or other Agent of such Zemindar, or other person aforesaid, to a Ryot or other actual Cultivator for the Rent of Land tilled by him.

Note.—Receipts or Discharges granted by any Zemindar, Talookdar or other Holder or Proprietor of Land, or by any Farmer, Kutkenadar, Ijaradar or other Tenant to any other Talookdar, Kutkenadar, Ijaradar, or other Lease-holder intermediate between the Ryots or actual Cultivators, and the Sudder Malgoozar or Lackherajdar, shall be written on Stamped Paper of the kind and rates above prescribed.

EXEMPTIONS CONTINUED.

Receipts and Discharges given for the Purchase Money of any Government Securities or Shares of the Bank of Bengal.

Receipts and Discharges given for Money deposited in any Bank, or with any Agent, to be accounted for on demand, provided no Interest be stipulated as payable thereon.

(If Interest be stipulated, such Receipt shall be chargeable as a Promissory Note, as above provided.)

Receipts or Discharges written upon Promissory Notes, Bills of Exchange, Drafts or Orders for the payment of Money duly Stamped. Sa. Rs. A.

Receipts and Discharges given to Gomashtas and others, being Servants of the Party giving the Receipts, in acknowledgement of the performance of Service, or of the said Servants having rendered Account of Trusts and Monies committed to them.

Letters by the Post acknowledging the arrival of any Promissory Notes, Bills of Exchange, or other Securities for Money.

Receipts or Discharges written upon or contained in any Mortgage Deed or other Security, or any Deed of Conveyance, Settlement, or other Instrument duly Stamped, acknowledging the Receipt of the consideration-money therein expressed, or the Receipt of any principal Money, Interest, or Annuity thereby secured.

46. *SETTLEMENTS, MARRIAGE SETTLEMENTS, &c.* viz.

Any Deed or Instrument, whereby any sum or sums of Money or any Government Securities, or other Property, real or personal, shall be settled or agreed to be settled upon, or for the benefit of any person or persons in any manner whatsoever, ... } Shall be charged with the advalorem duty chargeable for a Bond for the amount of value settled, or agreed to be settled, or in cases in which the value shall be indeterminate at the rate chosen by the parties under the rule and condition prescribed for Bonds and Agreements.

DEEDS of *GIFT and DOWER*, whether to take effect on the instant or at a future period, determinate or indeterminate, ... } Shall be charged as Deeds of Settlement.

EXEMPTIONS.

Wills, Testaments, and the like, together with Deeds merely

	Sa.	Rs.	A.
declaratory of Trust, pursuant to any previous Settlement, Deed, or Will.			

GENERAL EXEMPTION AND RULE.

Deeds, Instruments and Writings of any kind, in which Government, or any Board, Commission, Court, or Public Officer of Government may, in a public capacity be a Party, shall not be chargeable with any Stamp Duty, save and except Deeds, Instruments, and Writings relating to matters of, or belonging to the Commercial Department, or on account of any Commercial Concern of, or belonging to the Honourable Company, which shall be written on Stamped Paper of the same value as is or may be prescribed for the like Deeds or Instruments in the case of private individuals.

Note.—The foregoing Exemption shall not extend to Deeds, Instruments and Writings executed to or by the Court of Wards, Local Agents or Officers acting under their authority, such transactions being liable to a Stamp Duty like the transactions of individuals.

GENERAL RULE.

If any Deed, Instrument, or Document specified in this Schedule shall not be contained in one sheet or piece of paper or other material, it shall suffice that one sheet shall bear the Stamp, provided that the Signature or Seals of the Parties and Witnesses be thereupon.

SCHEDULE (B) *referred to in Section XVII. of the Regulation, containing the specification of Duties chargeable on Law Papers.*

	Sa. Rs.	A.
1. *BAIL-BONDS, MOCHULKAS, RECOGNIZANCES, SECURITY BONDS,* (Hazir or Fial Zamin) whether of specified amount or with a Penalty of a specific sum of money, or of indefinite amount, when furnished and filed under special order of a Court of Justice, Civil or Criminal, or of any officer exercising Judicial Powers, ...	To be charged as Petitions to the Court or authority ordering the same.	
When executed between Individuals not by order of Court,	To be charged as Bonds. See Schedule A.	

EXEMPTION.

Mochulkas taken on the Release of Prisoners from the Foujdaree or Criminal Jail.

2. *COPIES*—of *DECREES* in all regular suits for an amount exceeding One Hundred and Fifty Rupees, calculated in the manner explained under the head Plaint.		
When passed in the Courts of the Registers, or Zillah and City Judges, or by Sudder Ameens empowered to decide the same, ...	1	0
In the Provincial Courts of Appeal, ...	2	0
In the Sudder Dewanny Adawlut, ...	4	0
3. *COPIES*—of *REVENUE* and *JUDICIAL PROCEEDINGS,* of *ACCOUNTS, STATEMENTS, REPORTS,* or the like, filed on Record and taken out for use or reference, or when left on Proceedings in place of Originals withdrawn, per Sheet, ...	0	8

And each sheet shall be of a size not exceeding that fixed

	Sa. Rs.	A.
for Copy Paper (No. 3, of the Stamp Office) and shall be written on one side thereof only.		
4. *COPIES*—of the *PROCEEDINGS* of the *SUDDER DEWANNY ADAWLUT*, prepared for transmission to England in Appeals to the King in Council, on Paper per Sheet of, ...	2	0

EXEMPTIONS.

In all cases, in whatsoever Court tried, involving an amount not exceeding One Hundred and Fifty Rupees, Copies of Decrees shall be exempt from Stamp Duty.

5. *EXHIBITS*,—when filed or entered on the Proceedings of any regular suit, shall be accompanied by a Petition, Dukhaust, or Application, stamped according to the number, at a rate for each Exhibit of—		
In the Courts of Registers and Sudder Ameens, ...	0	8
In the Courts of the Zillah and City Judges, ...	1	0
In the Provincial Courts before Commissioners of Revenue and Circuit, or in the Sudder Dewanny Adawlut, ...	2	0

EXEMPTIONS.

In all cases, in whatsoever Court tried, involving an amount not exceeding One Hundred and Fifty Rupees, calculated in the manner described under the head "Plaint," the filing of Exhibits shall be exempt from Stamp Duty.

6. *MOOKHTARNAMAHS*, *WUKALUTNAMAHS*, and other *POWERS*, required to be filed for the conduct of suits, Regular or Summary, or of Proceedings of any kind, pending before the Native Courts of Judicature, or before the Revenue Authorities, ...	To be charged as prescribed for Petitions presented to those Courts and Authorities.

EXEMPTIONS.

Mookhtarnamahs, executed by Native Officers and Soldiers, belonging to the regular Corps, on the Military Establishment of the Presidency of Fort William.

	Sa. Rs.	A.
7. *PETITIONS, DURKHAUSTS* or *APPLICATIONS* addressed to any of the undermentioned authorities in relation to matters pending before them in their official capacities, when not otherwise specified or provided for in the Schedule,		
If to a Register or Sudder Ameen, or to a Collector of Land Revenue or of Customs, or to an officer of the Salt and Opium Department exercising Judicial Powers, or to a Magistrate, Joint Magistrate, or to a Zillah or City Adawlut, per sheet, ...	0	8
If to a Provincial Court of Appeal or Commissioner of Revenue and Circuit, or other authority exercising powers superior to the Zillah Adawlut, ...	1	0
If to the Sudder Dewanny or Nizamut Adawlut, or to the Sudder Board of Revenue, or Board of Customs, Salt and Opium, per sheet, ...	2	0

EXEMPTIONS.

All Charges and Informations respecting Crimes and Offences, not Bailable under the Regulations.

Petitions from Prisoners, Convicts, Persons under Examination, or otherwise in duress, or under restraint of the Court or its Officers.

Petitions of Appeal presented to Magistrates against Chowkeedarry Assessment.

Communications made to Magistrates in regard to Police matters not intended for record.

Petitions to Collectors or Officers making Settlements, relating to matters connected with the Assessment of Lands, the ascertainment of Rights or to other matters affecting the Settlement of the Government Revenue on Lands, if presented pending the formation of such Settlements.

	Sa. Rs.	A.
Petitions to Boards or Commissioners of Revenue relating to the same.		

8. *PLAINT—PETITION* of—in *SUITS* and *APPEALS INSTITUTED* in any *NATIVE COURT*—For the recovery of any sum of money, or to obtain possession of any Interest, Matter or thing.

| | | |

	Sa. Rs.	A.
In Suits for Damages, Compensation for Injury, Loss of Cast, and the like, the amount shall be computed at the rate assumed by the plaintiff.		

In Suits for Houses, Gardens, and other things of value, real or personal, not of the descriptions before specified, as well as for any interest in Malgoozarry Land not capable of valuation under the above rule, the amount shall be computed according to the estimated selling price, and every plaint shall specify the value of the thing claimed, and if the value thereof be understated, in the proportion of Ten per Cent. and the Plaintiff have not before completion of the Pleadings filed a Second or Duplicate Plaint on Stamped Paper equal to the difference under the Rule contained in Clause First, Section 7, Regulation XXVI. of 1814, the Defendant shall be entitled, on adducing proof of the same, to obtain a Nonsuit, to which effect the Courts are hereby required to pass judgment in such cases—any thing in the existing Regulations to the contrary notwithstanding.

9. *PLEADINGS—JUDICIAL*—Every *ANSWER, REPLICATION, REJOINDER,* and *SUPPLEMENTARY PLEADING,* filed in any suit, shall be written as follows:

In the Courts of the Register, Sudder Ameen, on paper of value	0	8
In the Zillah and City Court, ...	1	0
In the Provincial Courts of Appeal, and in the Sudder Dewanny Adawlut, ...	4	0

Note.—The Pleadings in the Sudder and Mofussil Special Commissions, and other extraordinary Courts, shall be regulated by the Rules of Practice established, or that may be established by those Courts respectively.

EXEMPTIONS.

In all cases, in whatsoever Court tried, involving an amount not exceeding One Hundred and Fifty Rupees, calculat-

ed in the manner described under the head "Plaint," the Pleadings shall be exempt from Stamp Duty. Sa. Rs. A.

10. *RAZEENAMAHS, RUFANAMAHS, SOOLUHNAMAHS,* or the like, that is to say—

Any Written Application, whereby or according whereunto, a Suit pending in a Civil Court shall be adjusted, or be capable of adjustment without Argument in Court, and award of the Presiding Judge, or other Officer, ... } Shall bear the Stamp required for a Pleading in the Court wherein it may be filed.

If the Suit be dismissed on such Application before the Pleadings have been completed, and the case called up, the Plaintiff shall be entitled to claim from the Court a Certificate, stating the Amount of Stamp Duty paid on the Plaint, with specification of the number and endorsement of the Paper filed, on presenting which to the Collector of the District, the Plantiff shall be entitled to receive back the entire amount of the said Stamp Duty—Provided always, there be no exception taken to the Paper or endorsement thereon.

If the Pleadings have been completed, and the case has been called up for Decision; or is on the List of Causes ready for hearing, the Plaintiff shall receive a Certificate as above for half of the amount of Stamp Duty paid on the Plaint.

If the adjustment by Razeenamah or Sooluhnamah be such as to require Decree to pass on which process of execution can be taken out, the Plaintiff shall not be entitled to any refund of the Stamp Duty so paid.

11. *WITNESSES—PETITIONS* or *APPLICATIONS* for the summoning or examination of witnesses, according to the number of persons named, } To be charged as Exhibits.

And no Witness shall be summoned or examined in a regu-

In Suit, unless his name is included in a Petition or Application in writing given in as above. *Sa. Ba. A.*

RULE.

Nothing herein contained shall be deemed or considered to alter or affect the Rules in force, in regard to Paupers, nor to affect the remuneration to which Moonsiffs are, or may be entitled.

THE END.